1065

Hon. Thos.

Foydaree

Proceedings

for 1830

1829

3329

At a Court of the Foujdaree Udalut,

Present,

Thursday 8th January 1829 } F. A. Grant Esquire, - - - James Cochrane Esquire, - - William Oliver Esquire, } Judges.

Read letter dated the 27th ultimo from the Joint Criminal Judge in the Zillah of Malabar requesting orders as to the disposal of a Prisoner sentenced to imprisonment by the Court of Quarterly Sessions.-

//Here enter No. 727 of 1828//

The Court of Foujdaree Udalut direct that the prisoner,

"Koodathil Toondeen Coomby Checka",

be removed to the Jail at Trichinopoly 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 Zillah of Malabar and to the Acting Criminal Judge at Combaconum for their respective information and guidance.-

//Sent following letter No 12//

Read letter dated 22d December last from the 2d Judge late on Circuit in the Northern Division with warrant for execution of prisoner Rampoorea Chayshoo, in Case No. 15 Nellore Calendar Sessions of 1828.-

//Here enter No 4 of 1829//

F 11

X 2

F 11.

At a Court of the Foujdaree Udalut,
Present,

Thursday 22d January 1829 } F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges

F 11
20 L

Read returns from the four Provincial Courts of Circuit to the Courts Pre=cept of the 18th September last accompanying extract from their proceedings under the same date, calling for lists of persons detained in confinement in all the Jails previous to the 1st July 1827, under requisition of Security by Magistrates, Criminal Judges, Judges on Circuit and the Foujdaree Udalut, and still remaining in confinement on that ac=count.-

(Here enter Nos 651, 661, 665 & 665)

1. The Court proceed to take into consideration the Statements accompany=ing these several returns.-

Southern Division

2. None of the lists received from the Southern Division call for particular remark - From Tinnevelly and Coimbetore the Statements are blank; and in all the Cases of detention in the Jails of Madura, Combaconum and Salem satisfactory ex=planations are given - all are since 1826 except one case in 1825, and the Salem Shaujigars whose cases are under separate consideration.-

Western Division

3. Among the returns from the Western Division the case which has chiefly attracted the attention of the Court is that of the Prisoner Kundil Kulyata Teken Ramen,

22d January 1829.

Ramen, in the list received from the Zillah Judge of Malabar - This Prisoner is stated to have been confined by authority of the Circuit Judge, the security demanded, under date 18th September 1826, being 1000 Rupees - The Criminal Judge adds that the same amount of security was also demanded from one Koonjoien; "that on inquiry being made "thro' the Magistrate of Malabar as to "what property they possessed, it was found "that they had property to the amount only "of 250 Rupees - a security of 200 Rupees was "therefore taken from Koonjoien, and he was "released - No one came forward to offer as "security for Prisoner Ramen, but he was "never charged with any crime before this Court "save that for which he is now in confine= "=ment, and his behaviour in Jail has been "peaceable".

4. Another Prisoner, Eddatoyil Kellunny Iroomapad, appears to have been in confinement since April 1823 in default of finding security to the amount of 200 Rupees - The explanation is, that after he had been required to find security he was twice sentenced for escape from confine= =ment, "and the terms of such sentences hav= "=ing expired, no security has been offered for "him".

5. The Court direct that the Criminal Judge in Malabar do bring both these cases before the Judge now on Circuit, to be disposed of under the general provi= =sions of Regulation VI. of 1827.

Paras 3 to 5.

6. Ordered that extract from these

22d January 1829.

these Proceedings be transmitted to the Provin= =cial Court of Circuit in the Western Division by Precept directing that copies may be fur= =nished to the Judge on Circuit and to the Criminal Judge Zillah Malabar - Returns to be made without delay.

/ Sent following Precept No 20. /

Northern Division

7. Of the returns from the North= =ern Division the only one on which the Court have any observation to make is that from the late Criminal Judge of

Nellore

Nellore - That Officer has forwarded two lists of persons detained in default of finding security, amounting in number to 19, two of= whom however had been released since the date of his first return - The remaining persons, with the exception of two detained by the orders of this Court and whose re= =lease the Criminal Judge states that he cannot recommend, are all in confinement (two for more than 3 years past) by order of the Magistrate, and from ten of them no particular amount of security would appear to have been demanded - In his letter accompanying the first list the Criminal Judge explained that he had no means of ascertaining whether these could be released with safety or not, as he did not receive a sufficient communication from the Magistrate of the circumstances which had occasioned their being detained in confinement until they could give security, to enable him to form an opinion about it -

The

The Court are of opinion that the Criminal Judge should bring these cases to the notice of the Judge now on Circuit, to be disposed of under the general provisions of Regulation VI of 1827. The Magistrate of course to be advised of such reference and of the orders which may be passed.-

Paras 7 and 8.

9.

Ordered that extract of these proceedings be transmitted to the Provincial Court of Circuit in the Northern Division and that they be enjoined to furnish copies to the Judge on Circuit and to the Criminal Judge of the Zillah of Nellore for the information and guidance of those Officers respectively.- Receipt returnable without delay.-

Sent following Receipt No 21

Centre Division

10.

In the Centre Division, the list from the Acting Joint Criminal Judge of

Cuddapah

Cuddapah is blank; and in the Jail of that Zillah Court the only Prisoners (6 in number) detained in default of finding security have all been sentenced by this Court and with the exception of one, since 1826; and the Criminal Judge declares he cannot recommend the unconditional release of any of them. The Court however are of opinion that the case of the Prisoner Goondalgadoo may properly be brought before the Judge now on Circuit, to be disposed of under the provisions of Clause Third Section X of Regulation VI of 1827. This Prisoner was, &

with

with another, tried for Murder and acquitted and sentenced by this Court to be released on security. It appears by the Criminal Judge's list that the security remanded is 300 Rupees and that the Prisoner has been in confinement since May 1828.-

11.

Chittoor

The Jail of the Chittoor Zillah Court contains 10 Prisoners confined on the same account; 3 by orders of this Court, and the remaining 7 by the orders of different Judges of the Circuit Court, but none longer than three years. Only one of these, Chinnoogadoo (detained by the late First Judge of the Circuit Court) the Criminal Judge thinks may be released on his Mochilka.-

12.

The Court direct that the Criminal Judge be instructed to bring the case of this Prisoner before the Judge holding the quarter Sessions for his orders; and to submit at the same time the cases of such of the other Prisoners in this list as may then have been in confinement for three years and upwards, to be disposed of under the provisions of Clause second Section IX and Clause Third Section X Regulation VI of 1827.-

13.

Bellary

The list from the Acting Criminal Judge at Bellary contains altogether 16 Prisoners similarly detained, all but 4 by the orders either of this Court or different Circuit Judges. The 4 exceptions are by order of the Assistant Criminal Judge. The Acting Criminal Judge recommends the release of all these 4 as well as 7 of the others, one on his own Mochilka in consideration

22d January 1829

consideration of the Prisoner not being an inhabitant of that part of the Country, and therefore unable to produce the security demanded; but all the rest unconstitutionally-

14. Under the provisions of Clause first Section XI Regulation VI of 1827 the Acting Criminal Judge is empowered to release, without reference to any other authority, the 4 Prisoners detained by the orders of the Assistant Criminal Judge; and the Court are of opinion that the cases of the other 7 Prisoners, whose release he recommends, should be submitted to the Judge now on Circuit, to be disposed of under the provisions of Clause second Section IX and Clause Third Section X of the same Regulation-

15. With reference to the former of these clauses the Court think that the cases of the first five Prisoners in the list should also be brought to the notice of the Circuit Judge for his orders- They have been in Jail upwards of 11 years in default of finding security, which appears to have been fixed by the late second Judge on the 9th October 1827 at 500 Rupees: It is stated in the 2d Column of the Acting Criminal Judge's report that these Prisoners were sentenced by this Court- It would appear however by the Bellary Calendar for the Second Sessions 1816 that the cases were not referred but finally disposed of by the Circuit Judge- It is true the Prisoners were considered Phandigars, but adverting to the long period of their imprisonment

22d January 1829

imprisonment, to the favorable report of their behaviour, owning that time to the large sum demanded as security, and above all to the present rare occurrence of the particular species of Crime of which they were accused, the Court are of opinion that their Cases may very properly be revised by the Judge now on Circuit.-

Chingleput

16. The number of Prisoners detained in default of security in the Jail of the Chingleput Zillah Court, appears by the Criminal Judge's list to be 14; and all since 1826 one by order of the Magistrate; the rest by the orders of this or the Circuit Courts- Of these the Criminal Judge states that two, viz Talavenchan & Gungama Naik, may be safely released.-

17. The Court direct that the Criminal Judge be instructed to bring the cases of the said two Prisoners before the Judge now on Circuit to be disposed of under the general provisions of Regulation VI of 1827.-

Ordered that extract of these proceedings be transmitted to the Provincial Court of Circuit in the Centre Division by precept enjoining copy thereof to be furnished to the Judge on Circuit Paras 10 to the Criminal Judge of Cuddapah, Paras 11 & 12 to the Criminal Judge of Chittoor, Paras 13 to 15 to the Acting Criminal Judge of Bellary, and Paras 16 & 17 to the Criminal Judge of Chingleput for the information and guidance of those Officers respectively- Precept returnable without delay.- /Sent following Precept 1822./

E.M.

22d January 1829.

Read Petitions presented in person by Munguamma and Oncatumma respectively of Chingleput.-

(Here enter Mise Pet.ns No.s 182 of 1829)

These Petitioners, with reference to the sentences passed by the Second Judge for the Centre Division in the cases Nos. 8 and 18 of the Chingleput Calendar for the Second Sessions of 1828, grossly misrepresented the purport of the futwa passed by the Law Officer of the Circuit Court; and as after examination thereof, and consideration of the evidence as noted therein, and in the Calendar, there seems no reason to disturb the sentences passed by the Circuit Judge, the prayer of these petitions is rejected.-

Ordered that extract of these Proceedings be furnished to the Petitioners on their application.-

F 16.

At a Court of the Foujdarry Adaulut

Present,

Thursday 24th January 1829 } F. R. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges

Read letter from the Secretary to Government under date the 13th Instant.

(Here enter No. 39)

The Magistrate of Vizagapatam applies to the Magistrate of Ganjam for the apprehension of a peon of his, accused of murder within the jurisdiction of the former, but whom the latter considers to have put to death a free booter, found in arms, in the act of attacking him. The Government, for this reason, deem it inexpedient that the accused should be made over to the Magistrate of Vizagapatam; but, being of opinion that the matter should undergo a regular judicial investigation, request that this Court will issue the necessary orders, and report the means by which this end can be attained.-

2. Regulation III 1827 refers to cases in which it is desirable that the prisoner should be tried by some Criminal or Circuit Court distinct from that within the jurisdiction of which the offence was committed, and is not applicable to a case like the present, in which it is desirable that the preliminary enquiry should be conducted by a Magistrate, distinct from him in whose

24th January 1829.

whose jurisdiction the offence occurred.-

3. It is not however very clear whether the offence (if any) was committed in the Ganjam or the Vizagapatam Magistracy the locality of it being subject of dispute. Both districts are within the jurisdiction of the Criminal Court of Chicacole; and the Judges are of opinion that, under these circumstances, the accused should be forwarded to the Criminal Judge of that Zilla, by the Magistrate of Ganjam; that the two Magistrates should respectively forward to that officer the evidence for the coming in the case; and that he will then best be able to decide whether the accused should be committed to stand his trial for the homicide, or whether no grounds exist for his committal.-

4 Ordered, accordingly, that extract from these proceedings, with copy of the orders of Government, be transmitted for the guidance of the Magistrates of Ganjam and Vizagapatam, and of the Criminal Judge of Chicacole, and that extract from these proceedings be also forwarded to the Government for their information as to the course of proceeding adopted.-

/Sent following letters Nos 25. 26. 27/

Read letter dated 11th Instant from the Provincial Court of Circuit in the Centre Division.- With copy of a return from the Magistrate in the Northern Division of Arcot to the Precept which accompanied an

24th January 1829.

extract from the Provincial Court of Circuits proceedings on the Criminal Reports for the quarter ending 30th September last.-

/Here enter No 44/

Read letter, dated 10th Instant from the Third Judge of the Court of Circuit in the Northern Division,- furnishing the information required in the Tinjolaree Boatmen's proceedings of the 21st October 1828 with respect to certain of the cases on the Nellore Calendar 2d Sessions 1828.-

/Here enter No 42/

Read letter dated 8th Instant from the First Judge on Circuit in the Western Division,- reporting the arrival of the Court of Circuit at Calicut.-

/Here enter No 21/

Read letter dated 10th Instant from the Second Judge on Circuit in the Southern Division Reporting the commencement of the first Session 1829 at Madura on this date.-

/Here enter No 23/

Read letter dated 18th December last from the Third Judge on Circuit in the Northern Division stating that he intended leaving Chicacole on the 19th Instant for Masulipatam:-

/Here enter No 19/

Read letter dated 16th Instant from the 3d Judge on Circuit in the Centre Division Reporting his arrival at Cuddapah, on Circuit.-

/Here enter No 32/

Read return, dated 7th Instant from

from the Judges of the Court of Circuit in the Centre Division to precept of the 31st December 1828.-

/Here enter No 17/

Read return dated 6th Instant from the Judges of the Provincial Court of Circuit in the Western Division to Precept with extract from the Foujdaree Adalut's Proceedings of the 31st Ultimo declaring that the re transmission of a case by a Criminal Court to the Magistracy or the Police, is no where permitted by the Regulations certifying that copies thereof have been circulated.-

/Here enter No 46/

At a Court of the Foujdaree Adalut,
Present,

Saturday - - -
31st January 1829 } F. A. Grant Esquire,
James Cochrane Esquire,
William Oliver Esquire, } Judges

Read letter, dated the 15th Instant from the Acting Criminal Judge in the Zilla of Combaconum requesting instructions regarding a prisoner who had been sentenced to imprisonment and hard labor for 14 years and to be banished to such Zillah as the Foujdaree Adalut may direct.- /Here enter No 28 of 1829/

The Court of Foujdaree Adalut direct that the prisoner,

"Kilanadharwoogar;"

be removed to the Jail in the Zilla of Chicacole there to be imprisoned agreeably to the terms of his sentence.-

Ordered, that extract of these proceedings be sent to the Acting Criminal Judge in the Zilla of Combaconum and to the Criminal Judge at Chicacole for their respective information and guidance.-

/Sent following letters No 30/

Read letter dated 17th Instant from the Second Judge of the Court of Circuit in the Northern Division, with Copy of the Calendar First Quarterly Sessions 1829 at Masulipatam.-

/Here enter No 65/

Read

the Judges of the Court of Circuit in the

31st January 1829.

Read letter dated 16th instant from the Provincial Court in the Southern Division with the Reports of the Criminal Judges and the Joint Criminal Judges for the Quarter ending 30th September last.-

/Here enter No 53 of 1829/

Read return dated 22d instant from the Provincial Court of Circuit in the Southern Division to precept ordering Circulation of Copies of the Roydarse Boatut proceedings dated 31st ultimo forbidding the retransmission of Cases by a Criminal Court to the Magistracy or the Police.-

/Here enter No 64 of 1829/

Read letter dated 27th instant from the Acting 1st Judge on Circuit in the Northern Division, Reporting his arrival at Pallore, but that none of the Servants of the Court of Circuit had reached that station.-

/Here enter No 66 of 1829/

Read letter dated 16th Instant from the Second Judge of the Court of Circuit in the Western Division returning his Circuit Report corrected.-

/Here enter No 48/

At a Court of the Foujdaree Adalut

Present

Thursday - - }
5th February 1829 } F. S. Grant Esquire, } Judges
James Cochrane Esquire, }
William Oliver Esquire }

Read Petition presented by Moottooveerapah of Narasinganoor in the Zillah of Chingleput.-

(Vera enter Misc: Pet: No 4 of 1829)

This is a Petition complaining of the Magistrate in the Southern Division of Arcot having afforded no redress on a representation which was made to Mr Cunliffe on the 7th September 1826 of Petitioner's house having in his absence from home, been broken into by one Ganjanoor Moodooreddy and 10 others and plundered of property of the value of 174 Rupees- The Petitioner states that on his lodging his complaint, Mr Cunliffe directed the Tahsildar Vencatroyer to apprehend the Robbers; but that Officer having been bribed by them, did not apprehend them, nor did he cause the stolen property to be restored - That he, Petitioner, therefore represented the circumstance to the Magistrate, but the Innabnamed Kistnarow, who sided with Petitioner's opponents, the Robbers, misrepresented the matter, so that the Petitioner could not obtain redress- That on the 27th September 1827 he complained of it to Mr Dacre, the then Judge of the Centre Provincial Court on Circuit and that Gentleman ordered the case to be heard

by

by the Magistrate; but as he even then could obtain no satisfaction from the Magistrate, on the 6th December 1828 he presented a Petition to Mr. Thomas Oakes the Judge on Circuit who returned it with an endorsement referring him to the Magistrate. Under all these circumstances the Petitioner prays the Court will direct the Criminal Judge of Chingleput by Precept to proceed against the Robbers agreeably to the Regulations, and cause his property to be restored to him.

The prayer of this Petition is clearly not admissible; but the Court deem it proper to call for an explanation of the circumstances referred to in it.

Ordered, therefore that a copy of the Petition be transmitted, with an extract from these proceedings, to the Provincial Court of Circuit in the Centre Division, by Precept requiring that the information desired with copies of the orders issued may be furnished without delay.

Sent following Precept No 32 /

X 6:

F 11.

At a Court of the Foujdaree Adalut.

Present,

Thursday, 12th February 1829.

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

Read letter dated 20th ultimo, from the Judges of the Provincial Court in the Western Division, submitting copy of a communication from the Criminal Judge in Malabar dated 12th December last, suggesting certain changes in his Jail guard, and also an addition to his establishment of English Writers.

(Here enter No 74)

The Court of Foujdaree Adalut concur with the Judges of the Provincial Court that, as a general principle, the mode of arming the Peons forming the present Jail establishment of the Malabar Zillah Court, and other points connected with the security of the Jail and the Prisoners confined in it, should rest wholly with the Criminal Judge, who alone is responsible for the safe custody of those placed under his charge. They deem it proper however to record their observations on such parts of the

ordered

the present reference as seem to call for more particular notice.

3. Of the ninety five Colhars attached to his establishment, the Criminal Judge states that several are so very infirm that it is scarcely possible for them to carry their arms (Muskets and Bayonets); and in another place he observes that there are no less than twenty whose respective ages now average from seventy to eighty. The Zillah Sail Guard is stated to have been originally composed of men belonging to the Malabar Police Corps, which it appears was disbanded in 1811, and of which there are now 1 Subadar, 1 Jemadar, 4 Havildars, 6 Naigues and about 20 Colhars, the rest being "men entertained as substitutes of those who have died and been dismissed", of whom "at least half have probably never pulled a trigger."

4. The Criminal Judge proposes that under these circumstances, sanction may be obtained for the employment of all the Colhars now effective, as regular Peons on the Establishment, to be armed with Swords as the Peons of the other Zillahs, or to appoint a Peon in succession to each Colhar who shall from this date demise, resign, or be superannuated, the requisite number of swords to be indented

indented for, and to be paid for by the Peons according to the Circular Judicial orders of Government dated 7th July 1820.

5. Conformably to the opinion expressed in the 2d Para it appears to the Judges of the Foujdaree Adalut that it is quite competent to the Criminal Judge, without reference to any authority, to superannuate such of his Sail Guards as are decidedly non effective, and to employ any others who may be considered fit for the duty.

6. The Circular order alluded to by the Criminal Judge has never been furnished to this Court, but it is understood to have declared that all Peons entertained in the public service should supply their own arms; as they would thus, it was presumed, be furnished with the arms which they knew best how to use, and would keep them in good order. There would therefore appear to be no obligation on the Criminal Judge to arm his Peons (should he think proper to employ them) with swords; and possibly the new man whom he may

ordered

may employ would be as little practised in the use of one particular kind of arms as of another.—

7. The Judges of the Zoujdaree Adalut conclude that in any changes which the Criminal Judge may think it necessary to make, he will see the expediency of employing, whenever it can be done, the relatives of the old Cohar guard who may be removed on account of bodily infirmity, to prevent the latter becoming a burden to the government under which they have so long served.

8. In the 8th Para of their letter now under consideration, the Judges of the Provincial Court observe, with reference to the Criminal Judges suggestion that an additional number of English Writers and Translators, may be sanctioned for his establishment, that they "are not prepared to recommend an increase to the extent proposed" viz. two English Writers, at a monthly expense of 130 Rupees, to translate Cases for trial before the Courts of Circuit, and also two English Writers to copy their translations, the Courts Decrees &c., viz. as the duties falling on that part of the Criminal Judges establishment are

are as heavy, if not more so, in Malabar, than in Canara, they recommend that sanction may be obtained for some increase, "particularly as the Salary to "English Writers in Canara, exceeds those "of Malabar, in an amount of 70 Rupees "per Month."—

9. According to a Statement received in May last from the Civil Auditor, it would appear that in each of the Zillah Courts of Canara and Malabar 4 English Writers are employed, and tho' the respective rates of pay vary, that the aggregate amount is the same in both Courts.— The Canara Zillah Court however has a "Translator" besides, which the Malabar Court has not.—

10. As observed by the Criminal Judge in the 11th Para of his letter, both his predecessor and the Provincial Court have already recorded their opinion as to the necessity of an addition to the number of English Servants in the Malabar Zillah Court if the order of the Zoujdaree Adalut dated 25th January 1827 be enforced, which declares it to be the duty of the Criminal Judges in the

the Western Division to prepare English Translations of all the Cases committed for Trial by the Courts of Circuit. The Court of Foujdaree do not deem it right to refer in this place to the 6th Para of their Register letter to Government dated 12th July 1827 (No 93), in which it was explained that the order here alluded to was merely a repetition of an old order which had long been observed in other Zillahs but which, from the long residence on the Western Coast, and familiarity with the native languages, of the late Judges of the Western Provincial Court, it appeared had not been acted upon in that Division. It may be stated now with reference to the concluding Para of the Provincial Courts present letter, which would seem to imply that such an order was unnecessary, that in declaring it to be the duty of the Criminal Judges to prepare the translations in question it of course was never intended that the Judge on Circuit might not dispense with any translations he might think proper, particularly in Trials not regularly with a view to relieve the Criminal Judge and his Servants.

It

11. It is apparent, however, that a Translator is indispensably necessary for the Zillah Court of Malabar, to be employed under the Criminal Judge, and the Court of Foujdaree. We do not accordingly resolve to recommend to Government that sanction may be granted for the appointment of one upon a monthly salary of 70 Rupees the pay of the present Head Writer of that Court, but this is the only addition to it's establishment which the Judges consider themselves at present called upon to recommend.—

Ordered that extract of these proceedings be transmitted to the Provincial Court in the Western Division and that they be directed to furnish a copy thereof to the Criminal Judge in the Zillah of Malabar for his information and guidance.—

(Sent following letter No 35)

Ordered also that a Copy of the letter from the Provincial Court, with extracts from the communication+ of the Criminal Judge and from these proceedings be transmitted to the Secretary to Government in the Judicial Department for the purpose of being submitted

+ Paras 8 to 12 inclusive
* Paras 5 to 11 inclusive

12th February, 1829.

submitted to Government with the recommendation of this Court that a Translator may be sanctioned for the Zillah Court of Malabar with a Monthly salary of 70 Rupees.

(Sent following letter No 36.)

Wednesday 18th February 1829. } Present F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire } Judges

At a Court of the Foujdaree Adalut

Read letters of the several dates noted in the margin from the Provincial Court of Circuit in the Southern Division, submitting respectively, pursuant to the Courts' orders dated 8th September last, the English records of the trials of the following cases, Viz. Nos 3 & 65 No 33, and No 4 on the Salem Calendar for the first Sessions 1815.-

26th November 3d December 20th December } 1828.

Here enter Nos 676, 691 & 716 of 1828

The Court of Foujdaree Adalut having attentively read and considered the proceedings in the case No 3, are of opinion that the only two of the Prisoners tried in it who are still in confinement, viz. of "Ghoolam Hussain alias Goodoo" the 7th, and "Shaik Ally" the 9th, may safely be released; there being nothing whatever against them but the loose evidence of the informers, who never were entitled to the slightest credit. And the Court direct that the said Prisoners be forthwith released accordingly.-

Case No 3

No 33. The Court having attentively read and considered the proceedings in

18th February 1829. in the Case (№ 33), are of opinion that the four Prisoners who are still in confine= =ment, should be released. There is not the slightest credible evidence against them, nor any proof that the murder charged was committed - The Court accordingly direct that the said four Prisoners,

1st "Cawder Saib"
2d "Bodegaudoo alias Baudoor"
3d "Badashaw alias Baudoo",
4th "Shaik Ally alias Bader",

be released forthwith. -

3 It should be observed that the 4th Prisoner Shaik Ally is reported by the Provincial Court to be the same person whose release is ordered above in № 3. -

№ 4

4 The Court are also of opinion that the four Prisoners who are still in confinement in the case № 4 should be released; there not appearing to be the slightest credible evidence against them - The Court accordingly direct that the said four Prisoners,

1st "Cuttal Saib alias Shaik Abdul Cawder,"
2d "Noodheen,"
3d "Dawood alias Jaffier,"
4th "Immoo alias Emaum",

be forthwith released. -

№ 65.

5 The Prisoner Shaik Daimudjee who is in confinement in the case № 65, under requisition of security, it appears was also tried with 22 others in the Case № 2 of the Salem Calendar 2d Sessions 1808, for

Highway

18th February 1829 Highway Robbery and Murder; and was one of 6 who were ordered, by the sentence of the Foujdaree Adalut, to be released on finding good and sufficient security for their future good behaviour and appearance when re= =quired. -

6 By the record now sub= =mitted, in № 65, it appears that this Prisoner was released accordingly upon se= =curity on the 20th August 1810, but that on the 5th October 1811 he absconded from his Bail, and was reapprehended on the 3d May 1813. It further appears that on the trial of the case № 65 the Prosecutrix identified some of the property found in the Prisoners houses. -

7 The Court are of opinion that these circumstances make the propriety of ordering his unconditional release doubtful, but adverting to the length of his impri= =sonment it is resolved to direct the Criminal Judge of Salem to bring his case at the ensuing Sessions of Gaol Delivery for that Zillah specially before the Judge now on Circuit, who with reference to the reports he may receive of the Prisoners conduct during his confinement, and the circumstances before stated will pass such orders as he may consider to be proper under the general authority vested in him by Regulation VI of 1827. -

8 Ordered that extract of these proceedings be transmitted to the Provincial Court of Circuit in the Southern Division, to be by them communicated to the Criminal Judge in the Zillah of Salem, for his information and

18th February 1829. and guidance.-

Receipt to be returned without delay.-

Ans.d 23d Febry. N.o 196. / Sent following Receipt N.o 31 /

In.o 5th March 1829

Read letter from the first Judge late on Circuit in the Centre Division, with the record of the trial in the case of perjury N.o 9 of the 2d Supplemental calendar for Chinglepoot at the first Sessions of 1828.-

/ Here enter N.o 682 of 1828 /

Read also petition presented in person by the Second Prisoner in that case, complaining of the acquittal of the prisoners by the same judge, in the cases N.o 10 of the principal, and N.o 40 of the Supplemental, calendar for Chinglepoot at the said Sessions.-

/ Here enter this &c. N.o 3 of 1829 /

1 The Judges see no reason to doubt the propriety of the acquittal of the prisoners in the two cases last mentioned; - and from the perusal of the trial abovementioned are satisfied that the prosecutors in these two cases, of whom the petitioner was one, were guilty of the perjury for which they were tried - and of which it is deeply to be regretted that they have been acquitted and thus escaped punishment.-

2 There can be no doubt that prosecutors are equally liable, as witnesses to trial for perjury, and from his letter now under consideration the first Judge seems satisfied that his first impression to the contrary was founded in error -

3 It now only remains to reject

F.16.

18th February 1829.-

reject the prayer of the petitioner, and it is ordered that the same be communicated to him accordingly:-

4. Ordered also that a extract from these proceedings be transmitted for the information of the first Judge in the Centre Division, and that the Original trial N.o 9 of the second Supplemental Calendar be returned to him.-

/ Sent following letter N.o 40 /

Read letter from the 3d Judge on Circuit in the Northern Division, with the Calendars for the Zilla of Masulipatam laid before him at the second Sessions for 1828.-

/ Here enter N.o 659 of 1828 /

Read also the report from the same Officer under date the 3d Instant, on the result of his late Circuit.-

/ Here enter N.o 90 of 1829 /

1. With reference to the many cases of acquittal in these calendars, particularly to two in which no futwa was taken, the 3d Judge in the first of these communications promised to advert to them in his general report. But it is silent in explanation and contains merely general imputations of perjury against the people.-

2. The Judges consider it exceedingly difficult satisfactorily to reconcile some of the acquittals with the evidence, as abstracted in the Calendars and the futwas - and feel themselves obliged to call for explanations from the 3d Judge that officer will hereafter be careful to insert in the calendar itself every matter requisite to elucidate the Sentences passed by him.-

In

3.

In the case No 3, part of the sto=
=len property was recovered, and the 3d and
4th witnesses, in the Criminal Court, are stated
to have proved it to belong to the prosecutor
whilst the 1st and 2d proved the prosecution
of it by the 1st & 2d prisoner. The 3d Judge will
explain what were the depositions of these
persons before him - and what the contra=
=dictions on which his acquittal was pro=
=nounced.-

4.

In the case No 5 also part of
the stolen property was recovered - the
3d Judge will state whether, before him,
the 5th and 6th witnesses proved it to belong
to the prosecutor and the 1st 2d and 3d that
it was pronounced by the prisoners.-

5.

In the Case No 7, the 3d Judge will
explain whether the maunding was proved
and whether before him 1st 2d 3d and 4th
witnesses deposed that it was inflicted by the
1st prisoner, as stated by them in the Cri=
=minal Court, also the nature of the contra=
=dictions on which his acquittal is founded.-

6.

On the case No 10, and in the
first case in the supplemental Calendar
the Judges abstain from any present re=
=mark. But they consider it necessary,
for the ends of justice, to call for an
english translation of each of these trials -
with any explanation the 3d Judge may have
to offer in elucidation of his proceedings -
He will state, on what ground he deemed
himself justified in acquitting the prisoners,
after they had pleaded, without taking any
futwa whatever from the law Officer.-

7.

In the case No 14 the 3d Judge
will

will explain whether before him the 1st
and 4th witnesses proved the recovered pro=
=perty to belong to the prosecutor whether
the 2d and 3d witnesses recognized any of the
prisoners as present at the robbery - and
whether the 5th witness deposed to the 5th
prisoner mortgaging part of the recovered
property - he will give an abstract of
the whole of this trial - and explain the
grounds of his opinion that the evidence
was insufficient for conviction.-

8.

Nothing is more necessary
on the part of a Circuit Judge than a
full and patient examination of every pro=
=curable evidence - and a nice discrimina=
=tion in distinguishing the truth amongst
the contradictions in which native testimony
is too often involved, especially when
viewed through the obscurity of a foreign
language - The Judges will expect the
future proceedings of the 3d Judge to be
circumspect - and refrain from further
remark until they have received the
explanations for which they have now
called.-

9.

Ordered that extract from the
foregoing proceedings be forwarded to the
3d Judge of Circuit in the Northern Division
by precept, return to be made within
six weeks from and after its receipt.-

Sent following precept No 44

Read return dated the 23d
Ultimo from the Judges of the Provincial Court
of Circuit in the Northern Division to pre=
=cept of the 31st December last enumerating the
proceedings of the Bydaree Moatut prohibiting
the

18th February 1829. the re-transmission of cases to the Magistrates or Police by the Criminal Judges &c.

/Here enter No 95 of 1829/

Read return dated 30th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept of the 22d Ultimo, directing the Criminal Judge in Malabar to bring before the Judge on Circuit the cases of 2 Prisoners confined in Jail in default of finding security.

/Here enter No 97 of 1829/

Read return dated 2d Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept of the 22d Ultimo directing the Criminal Judge of Bellore to bring before the Judge on Circuit the cases of certain Prisoners detained in confinement in default of finding security.-

/Here enter No 98 of 1829/

Read return dated 13th instant from the Provincial Court of Circuit in the Centre Division to precept directing different extracts from the Foujdaree Adalut proceedings of the 22d Ultimo respecting Prisoners in confinement under requisition of security) to be furnished to the several Criminal Judges therein mentioned, with a Copy to the Judge on Circuit, for their information and guidance respectively.-

/Here enter No 107 of 1829/

Read letter dated 19th instant from the acting First Judge on Circuit in the Northern Division reporting his intention to leave Bellore that evening for the Zillah of Guntoor.-

/Here enter No 108 of 1829/

Read letter dated 11th Instant from the Second Judge on Circuit in the Southern Division reporting the commencement of the 1st Sessions at Combaconum for the year 1829.-

/Here enter No 113 of 1829./

F. 86.

At a Court of the Foujdaree Adalut

Present,

Monday 23d February 1829 } F. A. Grant Esquire. -- James Cochrane Esquire, William Oliver Esquire, } Judges.

24
20

Read letter dated 20th Ultimo from the Second Judge of the Western Provincial Court of Circuit requesting orders with reference to the 34th Para of his letter accompanying the proceedings in Cases Nos 182 on the Calendar of the Auxiliary Court Zillah Malabar Second Quarterly Sessions 1828.-

/Here enter No 82 of 1829/

The Second Judge wishes to know whether the property said to have been pointed out by Alexico Gonsalves in the house of Kobby Manoel Gonsalves (Prisoner released by the Criminal Court for want of proof), is to be returned to him, with or without further enquiry, as he, the Second Judge, cannot conceive it at all probable that a man in his low situation could have acquired honestly so much property and of the description found in his house.-

The same observations, the Second Judge adds, apply to the property found in the house of the 5th Prisoner Kaviadichy Comaya.-

The Court are clearly of opinion that the property alluded to should be held

18th

23rd February 1839

held in deposite, until some one has made good his title to it, as it certainly is not likely that it belongs to the person in whose possession it was found; and if the prosecutor, as is probable, placed it there himself for a fraudulent purpose, it cannot safely be entrusted to him, unless it is clear that there are no others who claim it.-

The Court resolve to take this opportunity of enquiring thro' the second Judge, whether the Magistrate of Malabar has made the enquiry directed in their proceedings of the 24th November last &-

Ordered that extract of these proceedings be sent for the information of the second Judge of Circuit in the Western Division, and that he be directed to call upon the Magistrate without delay to furnish through him the information required by this Court.-

Sent following letter No 45 / S

F.16.

At a Court of the Foujdaree Udalut,
Present,

Wednesday
23rd. February 1829 } F. S. Grant Esquire
James Cochrane Esquire
William River Esquire } Judges

Read letter from the Register to the Provincial Court of Circuit for the Centre Division forwarding a correspondence with the Magistrate and acting joint Criminal Judge in Cuddapa, whence it appears that two travellers preferred a complaint that they had been robbed by the same persons whilst travelling together on the road;- but that the Amildar, in forwarding the accused to the Criminal Court, divided the case into two, sending each of the complainants as prosecutor in the one and witness in the other - apparently under orders issued by the Magistracy in 1825, with the view that the absence of witnesses might not facilitate the escape of offenders.-

/Here enter No. 88 of 1829/

The Provincial Court, upon this, refer two points - first whether such a case should have formed one or two distinct charges - secondly the degree of credence to be given to the evidence of prosecutors, in the absence of all other testimony.-

2 If two or more crimes of the same description, are charged against the

1 [illegible] sences as seem to call for

2 the same prisoners, as having occurred at the same time, and at the same place, though upon different individuals, the case is clearly one, and should be sent in as a single charge, under separate counts.- But if the time and place of the alleged crimes be different though the prisoners are the same, each case must be kept distinct and forwarded separately.- the Judges concur in opinion with the Provincial Court that the case under reference was of the former description.

3 With respect to prosecutors, the Judges believe it to be very generally supposed that prosecutors are not competent witnesses.- Now, in criminal prosecutions, unless the injured or suffering party were admitted as a witness few, and in some cases none, beside might have a knowledge of the fact, and crime might pass unpunished.- It has therefore long been a principle of English law that, even where the prosecutor may be entitled to a reward, on the conviction of the prisoner, his competency as a witness is unquestionable, and recent enactments* extend this rule, by abolishing the exception formerly made against the evidence of the party whose hand is forged, to prove that fact, in cases of forgery.- The Judges are of opinion that the same principle of the law of evidence extends to this country; and that in all criminal cases the prosecutor is to be considered a witness perfectly competent.-

4. As to the credence due to the evidence of prosecutors each case must be considered by itself. Experience induced the Judges

* see 32 of the act of the 7th the 8th George the 4th.-

Judges to believe that, in this country, it would be unsafe generally to found on it alone, uncorroborated by circumstantial evidence of some kind or other, the conviction of the accused.- At the same time it seems sufficient for committal and inquiry after such farther evidence; and where more than one prosecutor, perfectly unconnected with each other, whom there may be no reason to suspect of pre-concerted evidence, give clear and consistent testimony the Judges will not take upon themselves to say that peculiar cases may not occur to justify conviction thereon; but when even a single prosecutor, of good character, is corroborated by the immediate pursuit, accusation, and arrest of the party, more especially by part of the stolen property being traced to the accused ample circumstantial evidence may be elicited to his conviction, notwithstanding the prosecutor may be the sole eye witness of the crime.-

5 The Judges resolve to communicate the foregoing observations, for the information and guidance of the four Provincial Courts, and of the Courts and Magistrates subordinate to each of them.-

/ sent following letter No 52. /

6 Ordered that extract of these proceedings be sent to the Acting Secretary to Government in the Judicial Department for the purpose of being laid before the Right Honorable the Governor in Council agreeably to the orders of Government dated the 17th March 1826

/ sent following letter No 53 /

J. Gent No 10

E.M. 14 11 W

ordered

At a Court of the Fourdarew Adalut,

Present,

Thursday 25th February 1829 } T. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire } Judges

Read return, dated 5th Instant from the Third Judge late on Circuit in the Southern Division, to this Court's Precept of the 17th December last directing him to investigate and report on the Petition of Sheikum a Dasee, No. 28 of 1828, presented in behalf of the Prisoners convicted of Robbery by open violence in Case No. 14 on the Combaconum Calendar 2d Sessions 1828.-

/Here enter No. 100 of 1829/

The Petition above mentioned was considered to be deserving of enquiry in consequence of the allegation contained in it that the 1st Prisoner had been charged by one Vydeliinga Moodely with having stolen from him at Trichinopoly the identical jewels which he and the other Prisoners were convicted of having stolen from D Moottoo veeren Chitty.-

The result of the investigation which, in pursuance of this Court's Precept, the 3d Judge states he received the Magistrates of Trichinopoly and Tanjore respectively to order, is repeated as follows:

That

That it would appear, from the Police Officer's report, that the Prisoner Veeranagoo was not apprehended for a Robbery in the house of Oydelingum Moodely as asserted, but that he was taken up upon that person's information as a suspected person - That in the said Prisoner's defence he made no mention of his having been accused by Oydelinga Moodely of having stolen the identical jewels which he and the other Prisoners have been committed of stealing from the Prosecutor Mootoo = veera Chetty - Neither did the Petitioner Chellum state any thing of the kind when giving her evidence as a Witness for the defence - That the Prisoner Veeranagoo en = deavoured to prove that the jewels in question were made for him by a certain goldsmith at Trichinopoly, but neither the Cauzee nor the 3rd Judge who presided at the trial, could give any credence to that persons evidence, because his state = ment was rebutted by two Outwalls Peons of the Fort at Trichinopoly who de = clared that there was no such gold = smith residing in the Fort - Moreover the jewels in question were of a costly des = cription, and not likely to fall by fair means into the hands of the Prisoner -

4

In conclusion the Third Judge has no hesitation in stating his belief that the allegations in Chellums Petition are false, or the Prisoner would have stated them in his

26th February 1829.

his defence -

Ordered, on the grounds of the above return, that the Petition No. 28 of 1828, be rejected -

Read return dated 27th September 1828 from the Provincial Court of Circuit in the Centre Division to Precept of 18th ult. last respecting the confinement of Seekaram, Chengulroya pillay and Chengadoo. /Petitioner No 565/

Adverting to the return made by the Provincial Court of Circuit in the Centre Division under date 24th September last to this Court's Precept of the 18th of that month directing them to call upon the Criminal Judge in the Zillah of Chittoor to report whether the three Prisoners Seekaram, Chengulroya pillay and Chengadoo, in con = finement in the Chittoor Jail, had been released; and if not, why; and to the communication from the Magistrate dated 7th July 1828, copy of which accompanied the said return, in the last Para of which that Officer informed the Criminal Judge that should the Prisoners be detained in custody he might be enabled to render some further account of the parties who had absconded, by the period of the next Jail delivery in October -

Ordered that the said Pro = vincial Court be commanded by Precept to ascertain from the Criminal Judge and re = port to this Court whether the Prisoners abovementioned have been committed for Trial, and if not, what further proceedings have been held respecting them - Return to be made in three days from and after the receipt of the Precept -

/Sent following Precept No 54/

Ans.d 4th March No 138
In Sec. 10th do 1829 -

Read return from the Acting Judge of Circuit in the Southern Division under date the 22nd January last, forwarding translation of the trial No 8 of the Madura Calendar

26th February 1829. Calendar, for the first Sittings of 1828, as re-
=quired by this Court's precept of the 15th De-
=cember last - with reference to Miscellaneous
Petition No. 24 of 1828.-

/Here enter No. 60 of 1829/

The allegations contained
in the petition last mentioned are not sup-
=ported by the record.- But, on mature
consideration of the trial, the Judges are of
opinion that the evidence against the first
prisoner "Moothyen Chetty" was of a nature
so little entitled to credit, and in some
respects so contradictory, as not to justify
conviction - and they accordingly direct that
the said prisoner be forthwith released.
precept returnable without delay.

Ordered that the same be
communicated to the Petitioner.-

/Sent following precept No. 55/

Ans.d 9th March No. 156.
Letho. 19th Do. 1829.-

F. 16.

At a Court of the Foujdaree Udalut,

Present,

Thursday 5th March 1829 } F. A. Grant Esq.re, James Cochrane Esq.re, William Oliver Esq.re } Judges

Read Petition presented by
Kumparoyane Ecctunnah, styling himself
late Shrotreadar of the Village of Talla-
=poorpandoo in the Sungum Mootah in the
Zillah of Nellore.-

/Here enter M.P. No. 5 of 1829/

To a right understanding
of the subject of this Petition it is ne-
=cessary to revert to former proceedings
on the Civil side of the Court.-

Under date 22d July 1819.
a Petition was read in the Sudr Udalut
in the names of this Petitioner and two
others, viz.t Vencatarooloo and Adennah,
applying for the admission of a Special
Appeal from the Decree of the Northern
Provincial Court in Appeal No. 5 of 1813, of
wherein Nadamany Seetanah was Ap-
=pellant, and the said Petitioners were
Respondents. In support of the applica-
=tion it was urged that the case involved
questions of Hindoo Law; but the Court
observed that the Decree was founded
on mere matters of fact, which the
Provincial Court had adjudged to be
established; and that the objections

to

5th March 1829. to the Decree were founded on the denial of the authenticity of four documents, which that Court had admitted as authentic. It was obvious therefore, the Suor Adalut went on to observe, that the texts of law which were cited in support of the application were wholly inrelevant. The Court further stated that they had attentively considered the Decree complained of, and the objections which had been urged against it; and they saw no ground whatever for admitting the Special Appeal solicited.-

3. In the Suor Court's proceedings of the 4th April 1822 another Petition of 1822, was read in the same names; in which the Petitioners alleged, with reference to their first Petition, that Madamany Seetanah's suit against them for the recovery of the Chrottium Village in dispute, was founded on a conspiracy and supported by forged documents. They stated that Madamany Seetanah engaged one Loobiah to assist him, in his designs against them, by a promise in writing to grant him a fourth of the Village if he should succeed in gaining it; that they fabricated documents, and suborned witnesses, to give evidence in support thereof; and that the refusal of Madamany Seetanah to perform his engagement, had led to the disclosure of the facts of the conspiracy between them - The Suor Adalut remarked

5th March 1829 remarked, that the Petitioners left it to be inferred that the documents alleged to have been forged by Madamany Seetanah and Loobiah, were those upon which the Decree of the Provincial Court in this case was mainly grounded; and they went on to say, "if the forgery of those documents be established, the "Petitioners will no doubt be intitled to a Review of the judgment obtained against them- "For this purpose it is necessary that the "Petitioners should prefer to the Magistrate "of the Zillah a charge of conspiracy and "forgery in pursuance of such conspiracy, "against Madamany Seetanah and Loobiah; "and the Magistrate will dispose of the "charge in conformity with the Regulations- "If the result of the charge should be the "conviction of the two persons abovementioned, "it will remain for the Petitioners to apply "to the Provincial Court for a review of their "judgment in Appeal No. 5 of 1813, and it will "be proper for that Court to determine whether "the forgery of the documents in question affects "the grounds of their Decree.-

4. An extract from these proceedings was transmitted for the information of the Northern Provincial Court.-

5. In the proceedings of the Foujdaree Adalut dated 27th April 1826 a Petition, No 8 of 1826, was read, in the names of the same three persons, and which had been presented by this Petitioner Seetunnah- Stating that they had brought the charge before the Magistrate accordingly- That it had been examined by one of his Assistants, and by him forwarded to the Criminal Judge, before

5th March 1829.

before whom the 4 documents were proved to have been forged; notwithstanding which the Prisoners were ordered to be released - That the Petitioners applied for, and were promised, but never received, a copy of the Criminal Court's orders and of the depositions - That they made a representation on the subject to the Judge on the next Circuit, who fell sick and left the station - That afterwards they themselves fell sick; and thus the case remained - They prayed the Court would call for the papers and afford them redress.-

6. The Petitioners were informed that the Court saw no reason why the course before recommended should be departed from, and they were directed to apply to the Criminal Court by Petition for the papers required.-

7. The Petition now before the Court communicates the result of this application - The Petitioner states that it was made on the 17th July 1826; and that he was furnished with a copy in English, on plain paper, of the proceedings held on Case No 23 of the second Quarter of 1824 - That subsequently however the Criminal Judge took back the copy, and did not return it - That he was afterwards in great affliction from the death of his son and from wanting the means of subsistence; and in the mean time another Criminal Judge was appointed to the Zillah - He therefore presented a Petition on the 20th August 1828, and on the 7th September was furnished with a copy, on stampt paper, of the Tellogoo Diary of

Fb:
5th March 1829.

of the 19th July 1826 - That he earnestly requested to be allowed a copy of the proceedings which had before been given to him in English and taken back; but the Judge told him he could not have it, as it had been taken back by the late Judge, but that the whole record would be forwarded if called for by the Foujdaree Adalut.-

8. The Petitioner next proceeds to detail what he considers the proofs that the documents in question were forged by the party against whom he laid the charge, thence argues on the impropriety of his being released; and then, after speaking of illness and his advanced age as having prevented his coming sooner to present this Petition, concludes with praying the Court to send for all the proceedings and paps ordered for putting him in possession of his rightful Chrotrium.-

9. With this Petition is delivered an extract from the Diary of the Assistant Criminal Judge of Nellore dated Thursday 6th May 1824, in Case No 23 Second Quarter 1824.-

Rumperoyance Lutchmenurso,
Versus
Ouddamanoo Ectanah,

in which it is ordered that the Prisoner be released from confinement, the crime not having been established against him.

10 Also an extract from the Diary of the Criminal Judge stated Wednesday 19th July 1826, being the order on the Prosecutors' Petition in the case abovementioned.-

11 In this order the Criminal Judge

5th March 1829.

Judge states that he had heard the whole record read, and remembered all the circumstances which transpired at the trial; and that he was confident he had carefully considered the Case and had concurred in the acquittal of the Prisoner after a due consideration of the proceedings held before the Assistant Criminal Judge - That although there were strong grounds for supposing that the documents were forged, yet there was no proof to convict the Prisoner, and he was accordingly released - He goes on, in another place, to observe, that the fact was, the Witnesses gave depositions before the Criminal Court directly contrary to those given by them before the Assistant Magistrate; that therefore the presumption was, they must have deposed falsely.-

12. It is obviously incompetent to this Court, either as the Sudr or the Foujdaree Udalut, to comply with the prayer of this Petition - All that even the Sudr Udalut can do, is, to point out to the Petitioner, which they have already done, the right course for him to pursue - Conformably therefore with the order of the 4th April 1822 he may, if he thinks proper, and can satisfactorily account for the delay which has occurred, produce the abovementioned extract from the Criminal Judge's Diary, before the Provincial Court, with a motion for a review of judgment, when it will be for that Court to determine, as a Court of Equity, whether the evidence

5th March 1829.

evidence which led to the reasoned opinion of the Criminal Judge, that there were strong grounds for supposing the documents in question to be forgeries, tho' there was no proof to convict the Prisoner of having forged them may not satisfy them also of the forgery of these deeds - and if the forgery of the said documents affects the grounds of their Decree, whether equity requires them to receive new evidence as to the forgery and to review their judgment.-

13. Ordered that extract of these proceedings be furnished to the Petitioner on his application.-

Read letter dated 16th Ultimo from the Provincial Court of Circuit in the Southern Division, submitting copy of a correspondence between that Court and the Criminal Judge of Salem on the subject of the confinement of 72 Oil mongers in the Jail of that Zillah.-

/Here enter No. 117 of 1829/

Read also letter dated 25th Ultimo from the same Court, forwarding copy of a communication on the same subject from the Magistrate of Salem and of the answer to it.-

/Here enter No. 118 of 1829/

1. The Judges of the Provincial Court observe in their first letter, that the Collective Court not having authority to interfere in cases where the proceedings of the Magistrate are questioned, they have merely ordered the Criminal Judge to release the prisoners from Jail, leaving it to this Court "to notice the conduct of the Magistrate in so immediately recommitting

5th March 1829. "recommitting to Jail prisoners for an offence
"for which they had just been liberated
"on bail pending their trial before the
"Court of Circuit, and which appeared to
"them to be very reprehensible".-

2. In his letter to the Provincial Court the Magistrate states that this was not the case - that the bail Bonds which had been given to the Criminal Judge, by the persons alluded to, provided only for their appearance before the Judge on Circuit at the 5th Sessions of this year, whereas the security required by him (the Magistrate), and in default of which they were committed to Jail, was for keeping the peace, and their good behaviour for one year. And in his warrant to the Criminal Judge it is expressly stated that the men are committed under clause First Section V Regulation VII of 1827.-

3. The Court of Faydarce Adalaut entirely concur in the view taken by the Judges of the Provincial Court of all the proceedings in this Case; and are moreover clearly of opinion that the clause referred to by the Magistrate gave him no authority to commit the men in question to Jail, in default of security for their good behaviour, after they had been sent up to the Criminal Judge and had been by that Officer released on bail under the orders of the Provincial Court. The clause mentioned obviously goes no farther than to define the extent of the powers with which Magistrates are generally, without reference to any other authority, are invested, for keeping the peace.-

4 The Magistrate's explanation so

3) F/16.

5th March 1829. so far from disproving, actually confirms the statement of the Provincial Court that the prisoners were immediately recommitted by him for the Offence for which they had just been liberated on bail, and on the very evidence before the higher tribunal.-

5 The principle of the late Circular Orders dated 22d December last, appeared to the Judges of the Faydarce Adalaut to be applicable to this Case. Those orders pronounce it to be irregular in a Magistrate to detain persons under requisition of security, who have been released on a specific charge without security by the Criminal Court, unless distinct evidence and separate charges shall be received against the released prisoners, or the Magistrate possesses information against their general character not before the Court which released them; neither of which exceptions is to be found in the instance under notice, the charge and evidence under which the prisoners in question were recommitted to Jail by the Magistrate, appearing by his own statement to have been precisely the same as had been already before the Criminal Court.-

6. Ordered that extract of these proceedings be transmitted to the Provincial Court of Circuit in the Southern Division to be by them communicated to the Magistrate of Salem for his information.-

Dust following letter N°59

Read return dated 23d Ultimo from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated 18th instant. directing that Copy of the Courts orders

F.M.

At a Court of the Foujdaree Udalut,

Present,

Tuesday 16th March 1819

T. N. Grant Esqr.
James Cochrane Esqr.
William Rivett Esqr. } Judges

Read letter dated 18th Ultimo from the Provincial Court of Circuit in the Western Division with the Reports prescribed by Section XXXV Regulation X of 1816 for the quarter ending 31st December last, received from the Criminal and Joint Criminal Judges in that Division.-

(Here enter No 132 of 1819)

1. In the Report, No 5, of persons apprehended and delivered to the Criminal Judge of Malabar, the Court observe that the 1st, and 2d Prisoners in Case No 205 (of House breaking and robbery at night) were apprehended on the 15th, and the 3d Prisoner on the 15th of July, they did not leave the Talook till the 7th November.-

2. In Case No 219 also (of House robbery in the day time) the 1st and 2d Prisoners are said to have been apprehended on the 24th July, but the date of their leaving the Talook was the 29th November, the 3d and 4th Prisoners appearing to have been apprehended only on the 26th November.-

3. In Case No 212, in which the Prisoners were charged with having assaulted a man so as to have caused his death the next day, the Prisoners were apprehended on the 6th October and left the Talook on the 14th November.-

In

March 18[illegible]th March 1819.

ordered regarding the trial of the Cases N[illegible]S. 33. & No 4 of the Salem Calendar 1st Sessions 1819 be transmitted to the Criminal Judge for his information and guidance.-

(Here enter No 126)

Read letter dated 25th Ultimo from the Acting 3d Judge on Circuit in the Northern Division reporting his arrival at Guntoor.-

(Here enter No 123)

prisoners for an offence

10th March 1829.

4. In none of these cases, nor indeed in any in this Report, is any explanation given of the causes which may have been assigned by the Police Officers for the delay in forwarding the Prisoners to the Criminal Court, as required by the 4th Paragraph of this Courts' Circular orders dated 13th September 1824, in all cases where Prisoners are detained for fourteen days or more.-

5. The Court direct that this omission be pointed out to the Judges of the Western Provincial Court and that they be instructed to call upon the Criminal Judge of Malabar to furnish the information required in the cases abovementioned, noticing at the same time any memorandum he may have received from the Magistrate with reference to the 3d Para: of those orders.

6. The Judges of the Provincial Court on receiving the Criminal Judges return will pass such orders on each case as the circumstances may appear to require.-

Ordered that extract of these proceedings be transmitted to the Provincial Court of Circuit in the Western Division by Precept returnable in two weeks from and after its receipt, and that their attention be directed to prevent similar cases escaping their own notice for the future.-

Sent following Precept No 63

Sept. Ans. 25th March No 187
In 187 18th April 1829

Read letter dated 13th ultimo, from the Provincial Court of Circuit for the Western Division, referring for the decision of this Court,

10th March 1829. Court, at the request of the joint Magistrate of Malabar, "whether or not native officers of "police, employed within the limits of Military "Cantonments, under the provisions of Re= =gulation VI 1821, are amenable to the pro= ="visions of Regulation III 1819."-

/Here enter No 114/

1 Section III Regulation XI 1816 abolished the former civil police, and re-established a new description of civil police as therein enumerated - placed under the Civil Magistrate.-

2 But Regulation VI. 1821 trans= =ferred the police in Military Cantonments, in certain cases, to the officers Commanding;- and although Section III contemplated their apprehending and discovering criminals "by "means of the troops under their command", Section VIII placed this police, subject to the orders of the officer Commanding, under the immediate superintendence of the Commissariat officer - under whom the Judges perceived, in the course of their preparation of the new Military Bazar Regulation, lately submitted to the Government, that the General orders to the army have placed an establishment of Catwalls and other inferior native police.-

3 When the misconduct of a portion of this police was brought before the Government by this Court in 1822, the Honorable the Governor in Council observed "it is no part of the duty of those by whom "such prisoners may be apprehended within "the limits of Military Cantonments to "receive their confessions; and any cruelty "or ill-usage towards them, either in taking confessions

From the Judicial Secretary to Government 6th August 1822.-

"for which they

10th March 1829 "held respecting them."-

/Here enter No 138/

Read letter dated 6th instant from the Third Judge on Circuit in the Centre Division,- reporting that the Circuit Court will have Cuddapah for Bellary on the 7th instant.-

/Here enter No 1145/ S

Cuddp 24 14 20

At a Court of the Foujdarry Adawlut,
Present,

Sunday 12th March 1829 } T. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire } Judges

Read letter dated 9th ultimo from the Provincial Court of Circuit in the Northern Division accompanying the Reports prescribed by Section XXXV Regulation X 1816 for the quarter ending 30th September last, received from the Criminal and Joint Criminal Judges in that Division, together with Copies of the correspondence relative to them.-

24 14

/Here enter No. 131 of 1829/

Nellore 1. The Court observe in the report No 5 from the Criminal Judge of Nellore, that the explanation of delay furnished by the Police Officers, is inserted in almost every case however inconsiderable; and they remark with satisfaction that this Report hardly exhibits a single case, besides the two noticed by the Provincial Court in their letter to the Criminal Judge and the cases received from the Magistrate or his Assistant, where the interval between the apprehension of the Prisoners and their leaving the Talook, exceeded 3 or 4 days. The Court direct that the attention of the Criminal Judge be called to the 14th Clause of their Circular orders dated 13th September 1824, by which he will find that it is only

with

local

Court

10. 10th March 1829. "confessions, or for any other purpose, must be pu-
"nishable as the same offences would be pu-
"nishable if committed by other persons."-

4 Regulation III 1819, after rec-
=iting the enactments in Regulation XI. 1816
for the punishment of the civil police, then the
only police in existence, goes on to declare in
section III that "all native officers of police
"shall be liable to be sued in a Zillah Court
"or to be prosecuted in a Court of Cri-
=minal Judicature" for extortion, oppression
or any abuse of authority.-

5 It is evidently to this general
enactment, including the "native officers of
"police" of every description, that the Government
alluded in the foregoing orders;- and the Judges
of the Foujdaree Adalut are satisfied that the
provisions of that law apply to the Native
police under the Commissariat in Cantonments,
as much as to that under the Magistrate
elsewhere.-

6 Had any doubt existed on this
point, the Judges would have proposed a
declaratory enactment to this effect, in the
new Regulation which they lately forwarded
to the Government; for the information
before them shews that the police in Q-
uestion, from want of due control, is
peculiarly liable to fall into error and
abuse.-

7 Ordered that a extract from the
foregoing proceedings be forwarded to
the 4 Provincial Courts for the guidance
of the Courts and Magistrates under them
respectively.-

/ Sent following letter No 64 Ordered also that, in forwarding

10th March 1829 8

a copy of the same to the Government, according
to their general order of the 19th October 1824,
with reference to this Court's proceedings of the
27th May 1829 forwarded on the same date
and to their orders of the 6th August 1829
in reply, the Government be solicited to
bring to the notice of His Excellency the
Commander in chief, the following Extract
from a letter of the 25th February last, just
received from the second Judge of Circuit
in the Western Division.-

"On two occasions lately the
"Police of the Cantonment of Cannanore have
"apprehended, examined, and taken off
"written confessions from persons charged
"with heinous offences at that place, con-
=trary to the orders of Government under
"date the 6th August 1822; it is possible how-
=ever that these orders may not have
"circulated to the Military authorities; at
"all events it might be advisable to repeat
"them, as I do not consider the Civil com-
=petent to take any notice of these irregu-
=larities by direct communication with
"the Military authorities."-

/ Sent following letter No 65 /

Read return dated 14th
Instant from the Provincial Court of
Circuit in the Centre Division to precept
dated 26th February last ordering that
Court to report "whether the 3 prisoners
"Tekaram Chengleroy apillay, and Chingadoo
"have been committed for trial and if not,
"what further proceedings have been
held.

Court

12th March 1829.

only in cases where the Prisoners may have been detained for fourteen days or more that the explanation of the Police Officers is required to be entered in these Reports.-

Masulipatam at Rajahmundry

2. The Criminal Judge of Masulipatam at Rajahmundry has likewise noted in his Reports explanations of delay on the part of the Police Officers in cases in which it was not necessary under the orders above mentioned.

3. With reference to the 2d Para of the Provincial Courts letter to the Criminal Judge of the Zillah of Masulipatam it does not appear to this Court that the charge in case No. 2 of the Report No. 5 was improperly entered as "Gang Robbery" merely because there were only 3 Prisoners. In the instructions lately circulated with the new forms for the periodical statements required to be furnished by the Magistrates, it has been explained that any number more than two may be considered to constitute a Gang.-

the original Dft already be complete

Joint Criminal Judge at Masulipatam.

4. The foregoing remarks with respect to the entry in the Report No. 5, of the explanations of delay, are also applicable to the returns furnished by the Joint Criminal Judge at Masulipatam.-

Chicacole

5 With respect to the Reports from the Criminal Judge of Chicacole, the Judges of the Foujdaree Adaulut have only to express their entire concurrence in all the observations of the Provincial Court, in which have been only pointed out

12th March 1829.

Guntoor.

out whatever irregularities were exhibited in them.-

6. The Judges approve also of the instructions conveyed to the Criminal Judge of Guntoor in the Provincial Courts letter of the 10th December; and they desire that the requisition contained in the 7th Para may be repeated with particular reference to this Courts Circular orders of the 13th September 1824 before alluded to, should the information called for not have been yet furnished.-

7. In examining the Report No. 5, the attention of the Foujdaree Adaulut has been forcibly drawn to the fact that of the 22 Cases containing 153 Prisoners of persons apprehended and delivered to the Criminal Judge of Guntoor during the 3 months under review, one half of the Cases, containing 103 Prisoners, were under examination at the close of the quarter; while of the 11 Cases which had been disposed of; in only the first, containing 16 Prisoners, does the charge appear to have been established; in the remaining 10 Cases, all the Prisoners had been released, the charges not having been proved.-

8. It seems difficult to account for so large a proportion of Cases being dismissed otherwise than by supposing that they could not have been duly investigated by the Officers of Police.- The Judges of therefore direct that the circumstance may be brought thro' the Provincial Court to the notice of the Magistrate of Guntoor, with

F.M.

At a Court of the Foujdaree Udaulut,
Present,

Thursday 19th March 1829

F.A. Grant Esquire, - - -
James Cochrane Esquire, - -
William Oliver Esquire, -

} Judges

Read Petition presented by Bunkattoon a female.-

(Here enter N.P.C. No. 7 of 1829)

The Petitioner describes herself as the Wife of Gowskhan who and his brother Yaseen Khan were the 1st and 2d of the Prisoners tried in Case No. 8 on the Cuddapah Calendar for the Second Sessions of 1827, and were sentenced by this Court under date 25th June 1828 to be transported for life, the evidence having been considered insufficient to convict these two Prisoners of Murder.-

The Petitioner avers that the charge against the said Prisoners was not proved; and prays that the Law Officers may be ordered to reconsider their Futwa and that the Prisoners may be released.-

Ordered that the Petition be rejected as not deserving the attention of the Court.-

Read Letter dated 10th Instant from the Acting First Judge on Circuit in the Northern Division reporting his intention to leave Guntoor on the 11th instant for Ma=
=sulipatam.- (Here enter No. 14 of 1829)

Read return dated 9th instant from the Judges of the Provincial Court of Circuit

19th March 1829.

with directions to afford such explanation on the subject as it may be in his power to furnish; and that this particular attention be at the same time called to the orders of this Court circulated under date 4th September 1824, for the due observance by the Heads of Police, of those provisions of the Regulations, which have been enacted with a view to prevent the unnecessary privation of personal liberty.-

Ordered that extract of these proceedings be transmitted to the Provin=
=cial Court of Circuit in the Northern Divi=
=sion with directions to communicate to the several Criminal and Joint Criminal Judges in that Division such parts thereof as may concern those officers respectively, and to call for and transmit to this Court the information required in Paras 6 & 8 from the Magistrate of Guntoor, making their return in three weeks from and after their receipt of the Courts Precept.-

(Sent following precept No. 67)

Read Petition presented by Madepaukum Mungamma of the Chunglepet Zillah.-

(Here enter N.P.C. No. 6 of 1829.)

This is merely a repetition of a former Petition No. 1 of 1829 presented by the same person on the 8th January last, and which in the Courts proceedings of the 22d of that month was ordered to be rejected.-

Ordered that the Petitioner be informed that the Court cannot attend to any further Petitions on a subject already dis=
=posed of.-

19th March 1829

17th March 1829 Circuit in the Southern Division to forecept dated the 26th ultimo - directing the release of the 5th prisoner Mootien Chitty in Case No. 8 Madura Calendar first Sessions of 1828.-

/Here enter No 156 of 1829/

Read letter dated 14th instant from the Third Judge on Circuit in the Centre Division reporting his arrival at Bellary.-

/Here enter No 159 of 1829/

Read letter dated 13th instant from the First Judge on Circuit in the Western Division reporting the completion of the Jail Delivery at the Zillah of Calliant.-

/Here enter No 160 of 1829/

F. 16.

At a Court of the Foujdaree Udalut,

Present,

Thursday 16th April 1829 } F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges

24 20

Read letters dated 23d & 30th ultimo from the Acting First Judge on Circuit in the Northern Division submitting the Calendars for the first Sessions of 1829 for the Zillahs of Nellore and Guntoor respectively.-

/Here enter Nos 1838 & 195 of 1829/

The Judges conclude that the recognizance of the first witness in No 4 of the Guntoor Calendar has been forfeited.- They have not yet received the report of the grounds upon which it is proposed to mitigate the sentence passed on the 6th prisoner in the case No 4 of the same Calendar.-

2 On the Nellore calendar the Judges remark that the Acting Judge has discovered the error into which he originally fell, of mitigating sentences prescribed without reference to this Court. But, under the circumstances of each case, they do not deem it necessary to disturb the sentences he has passed in the case No 4, the prisoners in which were implicated in Nos 5. 6 and 9 also-, and in the case No 11.-

3 The prisoners in the cases Nos 9 and 12 being the same, and the offence having been committed on separate individuals, at the same place and period of time, they ought to have been united into a single charge of two counts.-

4 Ordered that extract from their

these proceedings be forwarded to the Acting First Judge for his information and guidance

/sent following letter No 80/

Read letters dated 19 & 28th ultimo from the Third Judge on Circuit in the Centre Division with the Calendars for the first Sessions of 1829 for the Zillahs of Cuddapah and Bellary respectively.-

/Here enter Rs 175 & 191 of 1829/

1. The Judges desire that in all future cases in which the 3d Judge finds it requisite to put a question to the Law Officer with the view of obtaining a second futwa he will invariably state in English in the calendar the precise nature of the question asked.-

2. In the Case No 3 of the Cuddapah Calendar, the prisoner has been convicted by a second futwa, on evidence objected to by the Law Officer. On reference to section VIII Regulation I 1825, the 3d Judge will perceive that in such a case he is prohibited from passing any sentence, and should refer the trial. /He will suspend the execution of the sentence passed - and proceed in this case to refer the trial.-

3 In the Case No 10 of the same Calendar, the Judges have been unable to reconcile the acquittal with the evidence recited in the futwa as given at the trial and accordingly consider it their duty to call for a translation thereof in English.

4 In the case No 14 of the same Calendar the futwa declares the first prisoner convicted of having gone "near" "to the house of the prosecutor in company with

"with the other robbers with an intent of committing a robbery and that he accompanied "them with the stolen property after it was "robbed". The Law officer declares this to have been an act forbidden by the Mahomedan law, and that, under it, he is liable to discretionary punishment. But the 3d Judge, on the erroneous impression that the prisoner had not been convicted by the Law officer of a "specific offence", has merely held him to security.- Every act forbidden by the Mahomedan law is a specific offence or crime punishable under the Regulations, and, on reference to clause fourth Section IV Regulation XV 1803, the Third Judge will perceive that a punishment has been specially provided by the Regulations for this crime.- He will accordingly in future proceed, under clause second Section VII of the same law, in all similar cases, but the Judges will not require him to amend his sentence in the trial in question.

To the case No 18 of the same
6 Calendar the remarks on No 3 equally apply. The sentence must accordingly be suspended and the trial referred.-

In the case No 19 of the same
7. calendar the 2d prisoner is convicted on evidence objected to by the Law Officer - & on this ground it is necessary to refer that trial, like No 3 & 18. The 2d prisoner also was clearly convicted as an accomplice and ought to have been punished as such, according to the foregoing remarks on No 14 - not as a receiver only.- The whole trial must be referred - and execution of the sentence must mean time be suspended.-

In

Court

the

8 In the Case No. 22 of the same calendar, though the 3d Judge was competent to sentence to banishment - it was not competent to him to fix the place of banishment - According to established practice, it was for the Criminal Judge to refer this last point, for the orders of this Court -; and in future cases the 3d Judge will observe this course of proceeding.-

9. The Case No 25 of the same calendar, though classed by the law officer as mere Serka seems evidently to have been a crime within the definition of "robbery by open violence" as explained in clause first Section III Regulation XV 1803.- The prisoners were accordingly liable to more severe punishment than the sentence passed; but the Judges will not disturb the same.-

10. In the Case No. 28 of the same calendar, the first prisoner appears to have been an accomplice; and, in this event, the remarks on No 14 are applicable to him also-. But the Judges will not now disturb the sentence passed in this case.-

11. In the Case No. 35 of the same calendar, the Judges direct that the sentence be suspended and the trial referred.- It appears to them that the crime, though classed by the law officer as an act forbidden by the Mohomedan law, was clearly a gang robbery by open violence, as defined in the Regulations.- If so, the sentence on the 2d prisoner would appear inadequate, and the first prisoner, if acquitted in No 15, though convicted in this instance, might escape all punishment, unless

F.M.
16th April 1829.

unless this trial likewise is referred.- It is a general rule that if the case of one prisoner is referred, that of any other prisoner convicted in the same case must be referred also.-

12. In the Case No 22 of the Cuddalore Supplemental Calendar, the 3d prisoner is convicted on evidence objected to by the law officer, under the explanation already given on this point, the sentence must be suspended,- and the trial of the whole first 3 prisoners referred.-

13 In the same calendar No 3, the 3d prisoner was convicted of theft, on strong presumptive evidence - under clause fourth Section II Regulation XV 1803 a second futwa should have been taken - and under it a sentence of seven years imprisonment passed - but the Judges will not disturb the sentence of 5 years imprisonment, already passed on this prisoner.-

14. In the Bellary calendar No 1 the Judges desire that the Third Judge will call upon the law officer to explain why no notice is taken in his futwa of the other evidence, independently of the proof to the talook confessions -; for from the calendar, and the Judges concurrence in the futwa, they conclude that such other evidence was given - The explanation given must be reported to this Court -

15 In the same calendar No 10 the Judges decline further explanation from the 3d Judge - The law officer, rejecting the other evidence, seems to have convicted the first prisoner on his Police confession exclusively - Now as the 3d Judge concurred in the futwa the Judges conclude

6th April 1829.

conclude that he considered these confessions corroborated by the testimony rejected by the law officer - If this was the case, they are at a loss to account for his concurrence in the acquittal of the other prisoners in this case, against whom that evidence strongly bears.

16. In the Case No 11 of the same Calendar, the conviction appears to have proceeded on the police confessions uncorroborated by any other circumstantial evidence. This is a proceeding of so dangerous a nature, that the Judges request an explanation of it from the third Judge.-

17 It is necessary that the 3d Judge should refer the trial No 1 of the Supplemental Calendar for Bellari.- The 3d prisoner has been convicted on evidence objected to by the law officer, and the remarks on the Cossapa Calendar No 3 equally apply to this case. Under the futwa also, there seems no reason why the 4th prisoner should be sentenced to a punishment inferior to that of the other 3- The sentence in this case should be suspended, until further orders are obtained on the reference directed.-

18. Ordered, that extract from these proceedings be forwarded by precept to the Third Judge, requiring conformity thereto, return to be made in 6 weeks from its' receipt.-

Sent following precept No 8

Read Petition presented by Latchmee of the Zillah of Chingleput.-

(Here enter Misc: Pet: No 9 of 1829)

This being merely a repetition of a former Petition presented by the same person, No 7 of 1828, upon which orders were passed in the Courts proceedings under date

16th April 1829.

24 [illegible]

date 20th November last - The Petitioner is referred to the former order.-

Read letter dated the 11th Ultimo from the Second Judge on Circuit in the Southern Division, with Copy of the Calendar of persons who were committed by the Criminal Judge of Combaconum to take their trial before the Court of Circuit for 1st Sessions 1829 and of the Futwah given by the law Officer.

(Here enter No 166)

Read letter dated 19th Ultimo from the 3d Judge on Circuit in the Southern Division forwarding letter from the Joint Criminal Judge of Salem, Reporting the Death of the 7th Prisoner in Calendar No 7 of the 2d Sessions of 1828.-

(Here Enter No 177)

F.C.

At a Court of the Foujdaree Udalut
Present

Saturday 18th April 1829 } F. A. Grant Esquire, } Judges
James Cochrane Esquire,
William Oliver Esquire,

Read letter dated the 20th ultimo from the Provincial Court of Circuit in the Southern Division, submitting, pursuant to the Court's orders of the 8th September last, English translations of all that can be found of the records of the trials in Cases Nos 16 & 18 on the Salem Calendar for the 2d Sessions of 1815.-

/Here enter No 1144/

The Court of Foujdaree Udalut having attentively read and considered the proceedings in these two cases, are of opinion that they may safely direct the discharge of the only three of the Prisoners in both who are still in confinement, there having obviously been no credible evidence against them - And they accordingly resolve to order that

"Shaik Emaum"
and
"Shaik Hoosain alias Boodoobaum
alias Amigooddoo alias Saheb"

being the 6th and 11th Prisoners in Case No 16
and
"Shaik Kujsain alias Runnah"
being the 1st Prisoner in Case No 18 may be released forthwith.-

Ordered that a extract of these proceedings be transmitted to the Provincial Court of Circuit in the Southern Division, to be by them communicated to the Criminal Judge in the Zillah of Salem for his information and guidance; return to be made

intimation. An
the

made without delay.-

/Sent following precept No 82/

Read letter dated 26th February last from the Second Judge of Circuit in the Western Division, submitting copy of a correspondence with the Magistrate of Malabar which has arisen out of the orders contained in this Courts proceedings of the 24th November last, connected with Cases Nos 1&2 on the Calendar of the Auxiliary Court of Malabar for the 2d Quarterly Sessions of 1828.-

/Here enter No 114 of 1829/

1. The Judges of the Provincial Court have perused the papers sent up by the Second Judge with feelings of strong disappointment. They regret exceedingly that his other avocations prevented the Magistrate from personally going into the enquiry directed by them, being confident that it would have been attended with the best effects. The duty however having been delegated to the Joint Magistrate, the Judges could never have contemplated such a total failure of justice as they have now to lament in consequence of that Officer having of his own authority, thought proper not to hold the enquiry, which to them appeared of such importance. For as the Second Judge justly observes, the report of the Joint Magistrate does not convey "even the remotest allusion to his having "gone into personal enquiries."-

2. Had the joint Magistrate made

made his doubts as to the usefulness of any enquiry, the subject of a special reference to his immediate Superior, and awaited further instructions, his proceedings would have exhibited a more becoming deference to authority, than the Judges are constrained to observe they now do.-

3 Under all the circumstances it would now answer no useful purpose to prosecute the enquiry which before appeared so desirable. The time for doing it with effect has passed. It would have been some satisfaction however to have been informed whether any measures had been taken as regards the Police Moonshy (Chembaden Kellapan) of whom the Joint Magistrate observes that he was "in all probability "the primum mobile of any irregularity that "did take place in the Talooke." It is admitted that the proceedings there "were most "irregular," and that they were chargeable to the Tahsildar and his said Moonshy. The Tahsildar is stated by the Joint Magistrate to have been "already dis-"charged for other misconduct." but his discharge for other misconduct presented no obstacle to proceeding against him for this. The Joint Magistrate adds that he has no reason to think that he /the Tahsildar/ was a corrupt man, but "he certainly was a most negligent public "servant," and then describes the Police Moonshy as "a man of different stamp."

Notwithstanding this, it does not appear that any further notice has been taken of him.-

Observed

the

18th April 1829.

Ordered that extract of the proceedings be transmitted to the Second Judge of Circuit in the Western Division for his information and guidance.-

/Sent following letter No 83/

Read letter dated 13th ultimo from the Provincial Court of Circuit in the Southern Division with the Reports prescribed by Section XXXV Regulation X of 1816 for the quarter ending 31st December last.-

/Here enter No 173 of 1829/

Read return dated 25th ultimo from the Judges of the Provincial Court in the Western Division to precept dated the 10th March last - calling for explanation in certain Cases in the Report No 5 of persons apprehended & delivered to the Criminal Judge of Malabar.-

/Here enter No 187 of 1829/

Read letter dated 7th instant from the Second Judge on Circuit in the Southern Division reporting the commencement at Salem of the 1st Sessions for 1829.-

/Here enter No 192 of 1829/

Read letter dated 2d instant from the Acting First Judge on Circuit in the Northern Division; reporting his intention to proceed to Rajahmundry.-

/Here enter No 198 of 1829/

Read letter dated 31st ultimo from the First Judge on Circuit in the Western Division Reporting his arrival at Mangalore.-

/Here enter No 194 of 1829/

Read letter dated 7th instant from the Acting First Judge on Circuit in the Northern Division reporting his arrival on Circuit at Rajahmundry on the 5th of instant.-

/Here enter No 205 of 1829/

Read

F/6.
18th April 1829.

Read letter dated 6th instant from the Second Judge of the Court of Circuit in the Western Division with Copies of the Calendars of the Auxiliary Court Malabar first Quarterly Sessions 1829.-

/Here enter No 215 of 1829/

Read letter dated 10th instant from the Second Judge of the Court of Circuit in the Western Division requesting that certain lines may be expunged from the column of the remarks on Case No VII. on the Calendar of the Auxiliary Court Zillah Malabar for 1st Quarterly Sessions 1829.- for reasons stated.-

/Here enter No 213 of 1829/

F. C. thereof to be imprisoned and kept to

F. C.

At a Court of the Foujdaree Udalut.

Present,

Thursday, 30th April, 1829. F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2nd Puisne Judge.
William Oliver Esqre 3rd Puisne Judge.

2 H
20 C

Read letter dated 13th Instant, from the First Judge on Circuit in the Western Division accompanying copies of the Calendars of the Zillah of Malabar, for the first Sessions of 1829.

(Here enter No 219)

In case No 2, the 3d Prisoner, who has been sentenced, under a Futwah of Tazeer, to three years imprisonment and hard labour, seems to have been an accessary if not a principal, in the commission of the Theft; but he is punished merely as a receiver - He should either have been sentenced to the commutation prescribed by law for the punishment provided in the Mohomedan law for the crime of which he was convicted, that of having been accessary to a Burglary and Theft, or the First Judge, if he considered that punishment too severe, should have recommended a mitigated sentence under the provisions of Regulation I of 1825 - The Court however

with

30th April 1829. will not now disturb the sentence.-

2. In case No 19, the 2nd and 3rd Prisoners were required severally to find security for their good behaviour and appearance when required, the former for 3 years and the latter for 5 years, in default whereof they were sentenced to be imprisoned for two years & three years respectively- The 4th Prisoner too was required to enter into sureties for his good behaviour for three years, or in default to be confined for one year and a half. The Court direct that the First Judge do issue amended Warrants, in the cases of these Prisoners, in conformity with their Circular orders of the 31st October 1828, repeated under this date.-

3. In case No 3 of the additional Calendar the First Judge should have applied to this Court for a mitigation of the prescribed punishment, agreeably to Regulation I of 1825, the provisions of Clause Fifth, Section II Regulation XV of 1803 clearly not being applicable to this case, inasmuch as the Prisoner having been convicted of the Theft, his restoration of the stolen money could neither alter the nature nor diminish the criminality of the Offence.-

Ordered that extract from the

30th April 1829. these proceedings be transmitted to the First Judge on Circuit in the Western Division for his information and guidance.-

(Sent following letter No 99.)

Read letter dated the 1st Instant from the Provincial Court of Circuit in the Centre Division, transmitting the reports prescribed by Section XXXV Regulation X of 1816 received from the several Criminal Courts in that Division for the quarter ending the 31st December last, together with an extract from that Court's proceedings thereon.-

(Here enter No 210 of 1829)

Referring to the Report No 5 of persons apprehended in the Zillah of Bellary, and delivered to the Acting Criminal Judge, the Court remark the very frequent detention of prisoners by the native Head of Police at Dhurmavaram, and the insufficiency of that Officer's reasons for the delay- the Judges desire that this may be brought by the Provincial Court to the notice of the Magistrate, with orders to direct the Police Officer of Dhurmavaram to be more careful in conforming to the provisions of Section XXXVII Regulation XI of 1816.-

In case No 166 of the Report No 5 of persons apprehended in the Zillah of

Chinglepat.

30th April 1829.

of Chingleput the Criminal Judge states that the depositions of the Witnesses in this case do not agree with those given by them before the Assistant Magistrate.
The Court desire that the Criminal Judge be required to report his reasons, for refraining from instituting proceedings against them for perjury.—

Case No 19 of this Report in which the prisoner is charged with having on certain dates and months not known, stolen certain implements of the value of Rs 4- 8 from the garden of Kistnama Naick situate at Sydapettah, is a case cognizable by the Magistrate or the Heads of Police under him and should accordingly have been disposed of by that Officer. The Provincial Court will bring the same to his notice for future guidance in similar cases.

In case No 89, forwarded by the Assistant Magistrate to the Criminal Court, no reason is assigned for the detention of the prisoners for 27 days. The Judges desire that this officer be called upon for an explanation of such delay.—

Chittoor

Numbers 208 and 209, in the Report No 5 of persons apprehended in the Zillah of Chittoor, are cases which according to the Record of the charge ought to have been disposed of by the Magistrate or the Native Heads of Police under him.—

F. C.
30th April 1829.

The same remark is applicable to case No 232.—

Cuddapah

In the Report No 5 of persons apprehended in the Zillah of Cuddapah and delivered to the Criminal Judge, no explanation is assigned, as required by the 4th Para of this Court's Circular order dated the 13th September 1824, for the delay in forwarding the prisoners in cases to the Criminal Court, who it appears were apprehended on a charge of stealing "Bonds" on the 14th of September but did not leave the Talook until the 27th of the same month.—

Cases No 2 and 5 require like explanation — the prisoners in the former number having been detained by the Police Officer from the 16th September to the 1st of October and in the latter number from the 27th September to the 14th of October.—

No 8 of this Report is a petty case of cattle stealing, the 1st and 2nd Prisoners being charged "with stealing and slaughtering a sheep value 12 "annas." 3d prisoner with aiding and abetting" which by Section III. Regulation

30th April 1829.

Regulation IV of 1827 is declared punishable by the Magistrates and Heads of District Police.—

The same remark is applicable to cases Nº 19 and 20 both petty cases of Cattle stealing— the prisoner in Nº 19 being charged "with stealing "and killing a sheep value 1 Rupee "in the night time"— And in Nº 20 "with "stealing a kid value 12 Annas from "the flock of the Prosecutor during the "day time"— the Judges direct that the attention of the Magistrates in the Zillahs of Cuddapah and Chittoor be called to the Circular orders of this Court dated the 31st December 1828, which direct "the Magistracy to guard against "over-loading the Criminal Courts with "cases punishable by themselves or the "Police under them."

The Prisoners in case Nº 20 of this Report charged with "intering "the house of the 1st Prosecutrix in the "night by taking out the Sat which was "placed in the door way and robbing "Jewels valued at 58 Rupees from the "persons of the 1st and 2nd Prosecutrixes "by open violence" are ordered "to "find each two sureties in the sum of 100 Rupees for their good conduct for the period of 3 years or in failure thereof

F. 11.

30th April 1829. "thereof to be imprisoned and kept to "hard labor with out irons until the "expiration of one year or for such "period as the Judge on Circuit may "direct"— the Judges desire that this sen=tence be revised in conformity with the Circular Orders of this Court of date the 31st of October 1828.—

In cases Nº 27 and 28 no reason is assigned for the detention of the prisoners in the Talook by the Police Officer from the 10th to the 30th of November.—

Assg Court of Cuddapah.

Referring to the Report Nº 5 submitted by the Acting Joint Criminal Judge in the Zillah of Cuddapah the Judges observe that the Prisoner in case Nº 2, charged "with assaulting and "beating the prosecutor on the high road "and with robbing him of property to the "amount of 5 Rupees 15 Annas and 3 pice," is sentenced "to be released on his giving "Security to the amount of 50 Rupees for "his future good behaviour for the period "of two years, in default of which to be "imprisoned for 6 Months"— this being contrary to the Circular Orders of the Foujdaree Adawlut dated 31st October 1828— the sentence of the Joint Criminal Judge should be amended.—

Ordered that extract of these Proceedings be sent to the Provincial Court

Read

20th April 1829. Court of Circuit in the Centre Division commanding them to make the necessary communications to the several Magistrates and Criminal Judges.-

(Sent following letter No 100)

Read letter dated the 4th instant from the Provincial Court of Circuit in the Western Division with the Reports prescribed by Section XXXV Regulation X of 1810 for the Month of February last, received from the Criminal and Joint Criminal Judges in that Division together with copies of the correspondence relative thereto.-

(Here enter No 211 of 1829)

In the Supplemental Report of Persons apprehended and delivered to the Criminal Judge of Malabar but whose cases had not been disposed of at the date of the Report ending the 31st of January.- the Judges of the Court of Foujdaree Adalut observe that it is to according to the record of the charge ought to have been disposed of by the Head of District Police, under the provisions of Section IV Regulation IV of 1821.-

2. In the Supplemental Report submitted by the Joint Criminal Judge of Malabar, the prisoner in case No 94 of 1828 is ordered "to be released on security of 50 Rupees for his future good behaviour and appearance when required for the period

20th April 1829. "period of one year and in failure of "which to be imprisoned 6 Months."- This sentence the Judges desire the Joint Criminal Judge be directed to reside agreeably to the Circular orders of the Foujdaree Adalut dated the 31st October 1828.-

3. The sentence in case No 4 1829 of this Report requires a similar revision.-

4. The Court direct that the omissions be pointed out to the Judges of the Western Provincial Court and that they be desired to give the necessary instructions to the Criminal Judge of Malabar.-

Ordered that a Copy of these proceedings be transmitted to the Provincial Court of Circuit in the Western Division by Precept returnable in two weeks from and after its receipt.-

24th 20"

(Sent following Precept No 101)

Read letter dated the 6th April last from the Provincial Court in the Northern Division, forwarding copy of a precept issued to the Magistrate of the Zillah of Masulipatam and his answer thereto with copy of the letter from the Secretary to Government called for in a letter from this Court dated

Read

30th April 1829

dated the 6th of March.

(Here enter No. 201)

Read return dated the 6th Instant from the Judges of the Provincial Court in the Northern Division to precept dated the 12th of March with remarks on the Quarterly Reports ending with September 1828.-

(Here enter No. 222)

Read letter dated 15th instant from the Provincial Court of Circuit in the Southern Division with report prescribed by Section XXXV Regulation X of 1816 for January 1829.-

(Here enter No. 229 of 1829)

Read letter dated 15th instant from the Acting 1st Judge on Circuit in the Northern Division reporting his intention to proceed to the Gillah of Chicacole.-

(Here enter No. 228 of 1829)

Read letter dated 25th instant from the First Judge of the Court of Circuit in the Centre Division stating that his Report on the 1st Circuit of 1828 called for in a letter from this Court dated the 7th January last will be forwarded in the early part of the adjournment which has been sanctioned.-

(Here enter No. 241)

18.

At a Court of the Foujdaree Adalut

Present.

Wednesday, 6th May 1829.

P. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

Read letter dated the 24th ult. from the Provincial Court of Circuit in the Centre Division forwarding the Reports prescribed by Section XXXV Regulation X of 1816 from the several Criminal Judges in the Division for the month of February, together with the extract from that Court's proceedings thereon.-

(Here enter No. 249 of 1829)

Chinglepute.

In case No. 5 of the Report the Criminal Judge of Chinglepute has demanded of the prisoner security for an indefinite period and "in default of finding such security to be imprisoned for one year under the provisions of Clause first Section IV Regulation I of 1822." The Court of Foujdaree Adalut on the 31st October 1828 enunciated the construction of Regulation VI of 1818 which modifies that granted by the Criminal Judge, and declares "that the term for which security is to be given and the term for which a prisoner may be detained in confinement in default

Read

May, 1829.

"in default of that security shall be
"the same." The Judges desire that this
be brought to the notice of the Provincial
Court and that the Criminal Judge be
directed to revise his sentence accordingly.

2. Referring to the Report No 5
submitted by the acting Criminal Judge
in the Zillah of Bellary, the Judges observe
a sentence "of 12 months imprisonment
"with hard labor in irons" passed on the
1st prisoner in case No 1 upon a charge
"of stealing grain of the value of 12 Rupees"
This case required explanation, with
reference to the Circular order of the
Sudder Adawlut dated the 15th August 1823.
The sentence passed in this case appears
illegal unless some of the circumstances
specified in Clause fourth Section III Regu-
lation VI of 1822 existed. If such do not
exist, the Judges direct that the term of
imprisonment be limited to six months
as provided in Section VIII Regulation
X of 1816.

3. The same remarks that were
made on the Criminal Reports of January
submitted by the Criminal Judge of Chittoor
are applicable to those of the present
month now under review.

Ordered that extract of
these proceedings be sent to the Provincial
Court of Circuit in the Centre Division
commanding

8th May, 1829. commanding them to transmit Copy
of the same to the several Criminal
Judges herein mentioned - receipt
returnable in 10 days from the date
of the receipt thereof -
(Extract following)

Received
8 May 29

F. 6.

At a Court of the Foujdaree Adawlut

Present,

Thursday 7th May 1829

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

Read again Petition pre-
-sented by Moottooveerapah Chitty of Nara-
-singanoor in the Zillah of Chingleput.-
(Here enter Miss: Dt. No. 4 of 1829)

Read also return made by
the Provincial Court of Circuit in the Centre
Division to this Court's Precept dated 5th
February last calling for a report upon
and copies of the orders issued on the subject
of the above Petition.-
(Here enter No. 133 of 1829)

1 The Provincial Court forwards
four original Petitions presented by the
Petitioner to the late third Judge on Circuit,
an extract from his proceedings thereon, and
copy of a return from the Magistrate in the
Southern Division of Arcot with its accom-
-paniments.-

2 With reference to the Petition
to this Court, the Magistrate reports "that
"the delay in closing the case, arose solely
"from the inattention of the complainant, for,
"as the Summonses to his witnesses could not
"be served on account of their absence, he
"was directed to report to the Magistrate
"the circumstance of the witnesses being in
"their villages, when the Summonses would
"again be sent; this the complainant never
"did; nor has he been seen for many months

at

7th May 1829.

"at the Magistrate's Office". The Magistrate concludes with stating that as far as he went into the case, "he was clearly of opi= "nion that the complaint ought to have "been preferred to the Judge of the Adawlut "Court at Chingleput, as the cause of action (meaning the complaint) "arose from the "distraint of property (whether legal or ille= "it is not the duty of the Magistrate to "enquire) by the order of the District Moonsiff

3 As accompaniments to his return the Magistrate sends up his original proceedings in the case, together with copies of his Diary.-

4 These proceedings comprise 4 examinations of the Prosecutor and of 7 of the Defendants taken before the Magistrate (Mr. Cunliffe) under date the 12th; of 4 of the Prosecutor's witnesses on the 13th; and a further examination of the Prosecutor and of 2 more of his witnesses under date the 22d February 1828. These last appear to have been two of seven persons who the Complainant desired might be summon= =ed as being his most essential witnesses and who were summoned accordingly on the 13th February. In the Magistrates' Diary of the 22d February it is recorded that the "Prosecutor having reported that the remainin "witnesses have concealed themselves at the "instigation of the Defendants - Ordered "that immediately on their returning to "their village, a report be made thereof"

5 It is quite clear from the depositions of the Petitioner's own witnesses that the transaction complained of was, as

7th May 1829

as the Magistrate states, a Distraint of pro= =perty by order of a District Moonsiff - The proper course therefore for the Petitioner to have pursued, if he considered himself aggrieved by such distraint and he could not obtain redress from the Moonsiff, was to have represented the circumstances to the Zillah Judge.-

6 The Court of Foujdaree Adalut consider it due to the Magistrate to record their opinion that his conduct in this case, so far from being open to censure or furnishing any justification for the scandalous imputations contained in the Petition to this Court, was highly commend= =able - On the complaint of Robbery being preferred in the first instance, an order was sent to the Tahsildar to enquire into it - The Petitioner subsequently complained that the Tahsildar had not made a proper enquiry - Upon this, the Magistrate immediately went into the case himself, and he appears to have investigated it as fully as the Petitioner afforded him the means of doing, and with a patience which after the utter failure of evidence to support the complaint, could only have proceeded from the laudable desire to sift thoroughly the charges which had been preferred against the public servants employed under his orders.-

7 Under these circumstances the Court resolve to reject the Petition of 1st of 1829 as frivolous and vexatious.-

8 Ordered that extract of these proceedings be transmitted for the inform= =ation of the Magistrate in the Southern Division of Arcot, through the Provincial Court of Circuit in the Centre Division, and

now be the

5th May 1829.

and that all the original proceedings which accompanied that Courts' return of the 23d February last be sent back.-

Ordered also that the same be communicated to the Petitioner on his application.- (sent following letter No 109)

Read Petition presented in behalf of Vembally Kupen Ahmud a convict in the Jail at Cuddapah.-

(Here enter Misc Dt. No 10 of 1829)

This Petitioner appears to have been the 2d of the two Prisoners tried in Case No 25 on the Cuddapah Calendar for the First Sessions 1829, on a charge of having in the night time forcibly entered the house of the Prosecutor Yeddoolapah (whom the Petitioner describes to be the Curnum of the Village of which himself (Petitioner) is the watcher) and robbed from the person of the said Prosecutors' wife a Gold necklace, cloths &c to the value of 24 Rupees 8 Annas - And who having been convicted, were sentenced by the Judge on Circuit to seven years imprisonment and hard labor in irons and 150 stripes with the Cat of nine tails.-

2. In their proceedings under date the 16th Instant this Court remarked that the Prisoners in the said Case No 25 were tried for a crime liable to a more severe punishment than the sentence passed; but added that they would not disturb the sentence.-

3. It is stated in the Petition, that when the Prisoners were first sent to the Tahsildar of Kirky, that Officer summoned the Prosecutors wife, who sent

F.C.
5th May 1829.

word that nothing had been robbed from her house and that therefore there was no occasion for her to obey the summons. It is also stated that by the Tahsildars orders a search was made in the houses of the Prisoners, in the presence of several of the Villagers, by a Peon who read the made a report in writing that none of the stolen property was found - It is further alleged in the Petition that the Nazir of the Criminal Court being a relation of the prosecutor caused the servants of the latter to give false evidence which ended in the sentence above mentioned, though none of the Prisoners witnesses were examined and no part of the stolen property had been found upon them.-

4. The allegations of the Petition are so far consistent with the report of the Case as exhibited in the Calendar that the wife of the Prosecutor does not appear to have been examined, nor is there any mention of the stolen property having been found upon, or in the possession of the Prisoners - Whether the witnesses for the defence were examined or not, is not stated.-

5. The prisoners were charged with having used violence towards the prosecutors wife; and her evidence was therefore of the highest importance, more particularly as there does not appear to have been any other admissible evidence to prove the fact of the alleged violence

7th May 1829

violence. It is manifest therefore that the best evidence which the Case admitted of was not had, and no reason is given why it was not. The Court therefore resolve to transmit a copy of the Petition to the Third Judge on Circuit in the Centre Division, with a Precept calling upon him to report thereon, and particularly to explain why the evidence of the Prosecutor's wife was not taken, what was the result of the search, if any was made, after the property said to have been robbed, and lastly whether the witnesses were examined whom the Prisoners cited in their defence, what were the points they were called to prove - and what was the nature of the evidence which they gave, if they were examined.

Return to be made in one month from the receipt of the precept.

Court following Precept No 110

Read Petition presented by Gungah Bhavanee calling herself the widowed Mother of Ram Dass, of Anjanoor in the Zillah of Chingleput.

(Here enter M. P. No 11 of 1829)

This is a Petition complaining of the grievances to which the Petitioner and her son have been exposed since the employment of the latter by the then Collector Mr. Cunliffe as the Cutwal of Chingleput, arising from the enmity of those of their neighbours who were evil disposed; thro whose means the Petitioner alleges that her son was falsely accused of Theft and has been kept in confinement in the Fort of Chingleput for these 3 years - The prayer of the Petitioner is, that this Court will afford her redress by ordering the release of her said Son from confinement -

The Petition is altogether too vague and general for any order to be passed upon it, and the Court therefore resolve that it be rejected as irregular.

5th May 1829 -

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20

Z. U.

At a Court of the Zeydaree Adalut.

Present,

Monday, 11th May 1829 — F. A. Grant Esqre. 1st Puisne Judge
James Cochrane Esqre. 2d Puisne Judge
William Oliver Esqre. 3d Puisne Judge.

Read letter dated the 20th ultimo from the Provincial Court of Circuit in the Northern Division, submitting the Reports prescribed by Section XXXV Regulation X of 1816 for the Quarter ending with December last, received from the several Criminal and Joint Criminal Judges within their Division, together with their Proceedings and correspondence thereon.—

(Reference No. 245 of 1829.)

24 U 20

In the Report No. 5 of persons

Guntoor. apprehended and delivered to the Criminal Judge of Guntoor no explanation is assigned, as required by the 4th Para of this Court's Circular Orders dated the 13th of September 1824, for the delay in forwarding the prisoner in Cause No. 7 to the Criminal Court, who it appears was apprehended on the 23d September last but did not leave the Talook before the 29th of October.—

A

11th May 1829.

2.

Additional explanation is required in No 13 of this Report—the date of the prisoner's apprehension being the 8th of December, that of his leaving the Talook, the 22d of the same month, when the Provincial Court of Circuit is desired to call upon the Magistrate to furnish

Rajahmundry. 3.

Referring to the sentence passed in case No 2 of the Report No 5, submitted by the Criminal Judge of Rajahmundry, that officer has omitted to specify the period for which the sureties are to be responsible for the good behaviour of the prisoners. The Judges conclude from the wording of the sentence that it was the opinion of the Criminal Judge that it would be unsafe to release the prisoners without security at the expiration of the limited period of 12 Months, in which case it was his duty to have recorded his opinion to that effect specifying at the same time the amount of security which should in his judgement be required from the prisoners, as well as the number of sureties and the period for which the sureties should be responsible for their good behaviour.

4. The Judges desire that the General Criminal Judges within this Division

11th May 1829.

Division be again instructed to omit in future the Column in the Report No 5 headed "before what Court of Circuit to be tried" this information being considered no longer necessary.

5. Ordered that an extract of these Proceedings be forwarded to the Provincial Court of Circuit in the Northern Division desiring them to make the necessary communications—Precept returnable within three weeks from the date of its receipt.

(Sent following Precept No 112)

Read letter, dated the 7th Ultimo from the Provincial Court of Circuit in the Centre Division, submitting the Reports prescribed by Section XXXV Regulation X of 1816 for the month of January from the several Criminal Judges within the Division, together with their Proceedings thereon.

(See enter No 239 of 1829)

In the Report of persons

Cummum apprehended and delivered to the acting Joint Criminal Judge in the Zillah of Cuddapah, the Provincial Court have omitted in Case No 1 to call upon the Magistrate to account for the detention of the prisoners in the Talook for 30 days

11th May 1829.

days- The Court of Circuit appear to the Judges of the Foujdaree Adalut to have overlooked their orders of the 13th September 1824, which modify those of the 5th November 1823, and have assigned to the Provincial Court of Circuit, the duty of calling upon the Magistrates for the necessary explanation in case of the detention of prisoners in the Talook, for fourteen days or more where by abstaining from remark to the Criminal Court the Magistrate intimates his approval of the police proceedings-

The Judges have with regret observed several other instances of delay on the part of the Police Officers in this Division, but at present refrain from taking further notice of them, finding that the Provincial Court in an extract from their Proceedings on the Criminal Reports for the Month of February have brought these irregularities to the serious notice of the several Magistrates in their Division-

Chittoor

Four Columns in the Report No 5 submitted by the Criminal Judge in the Zillah of Chittoor are left out, in consequence of which the Judges are at a loss to know what has become of the prisoners in Nos 1, 3, 4, 6, 8, 9, 10, 11, 12 and 13. the Report shewing nothing

F. C.
11th May 1829.

more than the date of their apprehension, what delay might have taken place in their transmission to the Criminal Court the Judges are equally unable to ascertain, as the date of their leaving the Talook is not mentioned- The omission of these Columns should have attracted the notice of the Provincial Court, whose duty it was to have returned the Report to the Criminal Judge for their preparation according to the prescribed form-

The Judges have likewise observed in this Report that the Criminal Judge has not in any instance recorded the grounds of the release of the prisoners they desire that these may be stated in future-

Ordered that extract of these proceedings be forwarded to the Provincial Court of Circuit in the Centre Division, requiring them to make the necessary communications to the Criminal Judge in the Zillah of Chittoor and to the acting Joint Criminal Judge in the Zillah of Cuddapah- Precept returnable within ten days from and after its receipt-

(Cut following Precept No 113)

Read letter dated the 26th Septem-

Mr Cochrane and Mr Oliver

ber 1828. from the 2d Judge late on Circuit in

in the Northern Division, with record of trial in case No 11 Chicacole Calendar 1st Sessions 1828.

(Recenter No 590 of 1828)

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 Cozat and Mooftees of the Foujdaree Adaulut, confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid, and acquit the prisoners,

1st "Gaydalla Ramdoo,"
2d "Seroomanaydee Venkiah,"
3d "Seroomanaydee Seetaramdoo,"
4th "Danapala Ramdoo,"
5th "Gaydalla Appiah,"
and
6th "Coondah Appiah,"

but considering that strong suspicion though not amounting to conviction, attaches to them, they under clause first Section X Regulation VI of 1827 direct that the prisoner,

1st "Gaydalla Ramdoo,"

be required to find two sureties for the sum of three 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 that the Prisoners

2d "Seroomanaydee Venkiah,"
3d "Seroomanaydee Seetaramdoo,"
4th "Danapala Ramdoo,"
5th "Gaydalla Appiah,"
and
6th "Coondah Appiah,"

be required severally to find two sureties for the sum of one hundred Rupees each, for their good behaviour and appearance when required within the same period, or in default thereof that they be detained for three years in confinement.

The conviction or acquittal of the Prisoners in this Case depended upon the degree of credit attached to the evidence of the 4th Witness; but though there were several collateral circumstances strongly tending to corroborate his testimony, the Court considered it would be dangerous to found a conviction upon it. In the 1st Prisoners account of himself, contrasted with the evidence of the 5th and 6th Witnesses, there was a great deal to excite suspicion against him; but the Court were not satisfied with the manner in which that account was obtained from him — Questions ought not to be put to an accused

person

11th May 1829.

person requiring him to give an account of himself, unless he is at the same time distinctly given to understand that it is optional with him to answer them or not, when an intelligent and innocent man might unconsciously be led into a disclosure of circumstances, which coupled with other facts appearing in evidence, might be assumed as conclusive of his guilt. A man after his answer to the charge, may properly be asked whether he has any thing further to say, but there the committing Officer should stop.—

The Court have little doubt of the actual guilt of the Prisoners, but after the most careful consideration of the case, they have thought that the evidence as it stood, was not legally sufficient for their conviction.—

Ordered that an extract from these proceedings be furnished for the information of the Second Judge of the Provincial Court of Circuit in the Northern Division.—

(Sent following Letter N°14.)

Read letter, dated the 10th December 1828 from the Second Judge on Circuit in the Centre Division, with record of trial in the case

F. H.

11th May 1829.

case N°1 Cumbum Calendar second Sessions 1828.—

(Here enter N°703 of 1828.)

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 Coozatauns Mooftees of the Zillah Adawlut, confirm the said futwa of the Cazee ool Coozatauns Mooftees aforesaid, and acquitting the Prisoner,

"Vencatagadoo,"

direct that he be set at liberty.—

There appear to the Court strong grounds of suspicion against the Prosecutors in this case. It is clear enough that there was an affray in which one person lost his life, but the Court are not at all satisfied that the trial exhibits a full account of all that passed, or that the account it before them is true, as far as it goes. The evidence of the prosecutors on their several examinations seems to be a great deal too consistent. It was a scene of tumult and confusion, and yet each tells his story in nearly the same words on each several examination. In the

11th May 1829. the other hand the evidence for the defence goes a great way to prove that the principal Witnesses for the prosecution were tampered with - It should be observed also that the 1st Prosecutor endeavoured in the first instance on the most frivolous pretences to involve some others in the charge - On the whole the Court concur in the unconditional discharge of the prisoner -

Ordered that a extract of the proceedings be transmitted to the Second Judge of the Provincial Court of Circuit in the Centre Division for his information.

(Sent following letter No 115.)

Read letter, dated the 12th December 1828, from the Third Judge on Circuit in the Southern Division, with record of the trial in case No 2 Kolligal Calendar 2d Sessions 1828 -

(Here enter No 706 of 1828)

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 Fouzdaree Adawlut, confirm the said futwa of the

11th May 1829.- the Cazee ool Coozat and Mooftees aforesaid, and under the sentence of Dohoobut declared in the futwa, do in conformity to Clause Third Section VII Regulation XV of 1803, adjudge the prisoner

"Bongojee,"

to receive one hundred lashes with a cat-of-nine tails 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 five years, and the female prisoner

"Batee,"

to be imprisoned and kept to hard labor, without irons for and during the period of one year -

(Sent following letter No 116.)

Read letter dated the 6th September last from the Second Judge of Circuit in the Northern Division, submitting case No 3 Chicacole Calendar First Sessions 1828 -

(Here enter No 574 of 1828)

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

11th April 1828

11th May 1829

11th May 1829

Cayee ool Coozat and Moofties of the Tongdore Adalut, confirm such part of the said futwah of the Cayee ool Coozat and Moofties aforesaid as acquits the prisoners,

2d "Lutsoomoneyah,"
4th "Sawayah,"
5th "Balsah," and
7th "Goorah,"

and direct that they be set at liberty - and being of opinion that the prisoners,

1st "Goomdah,"
2d "Chinna Gongah," and
6th "Pedda Gongah,"

are not convicted on strong presumptive proof, notwithstanding the futwa of their Law Officers to that effect, direct that the said prisoners,

1st "Goomdah"
2d Chinna Gongah," and
3d Pedda Gongah,

aforesaid be likewise set at liberty.-

The Court direct that the Second Judge be informed that his release of the 8th Prisoner in this Case / Dommah / should have been certified in the Persian record of the Trial.-

Ordered that a extract of these proceedings be furnished for the information of the Second Judge of the Provincial Court of Circuit in the Northern Division.

(Sent following letter)

L. U.
11th May, 1829

Mr Cochrane
and
Mr Oliver.

Read letter dated the 15th February 1828 from the First Judge on Circuit in the Centre Division, - transmitting case No 1 Supplemental Cuddapah Calendar 1st Sessions 1828.-

(Recorded - No 440 of 1828)

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 Cayee ool Coozat and Moofties of the Tongdaree Adalut, confirm the said futwa of the Cayee ool Coozat and Moofties aforesaid and acquitting all the prisoners, direct that the

6th "Timmee" (wife of the 1st Prisoner)
and
7th "Cunnee" (wife of the 2d Prisoner)

be set at liberty; but considering that strong suspicion, though not amounting to conviction, attaches to the remaining prisoners, they under Clause sixth Section II Regulation XV of 1803, direct that the prisoners,

1st Pedda Hanemegadoo,
and
2d "Chinna Hanemegadoo,"

be required to find two sureties in one hundred Rupees each, for their good behaviour and appearance when required, within three years, or in default thereof that they be detained for three years in confinement, and confirm the sentence passed on the

11th May 1829.

the prisoners
2d "Takeengadoo"
4th "Banmoongadoo"
and
5th "Pandaseegadoo"
respectively by the Judge on Circuit.-

It does not appear that the 6th 7th and 8th witnesses had any previous knowledge of the prisoners, and the Court think it would be extremely dangerous to credit that part of their evidence which goes to identify the 1st and 2d prisoners as present at the robbery There is also no evidence to prove that the articles Nos 35, 36, 37 and 38 were ever in possession of the prisoners or any of them, and the only proof against them seems to rest on the credit to be given to the evidence respecting the Soorakhee Rupee. It is possible that this evidence may be true, but the Court cannot bring themselves to found a conviction on evidence so slight as this. The prosecutor indeed swears to a Yakareo Pagoda but this evidence seems less entitled to credit than the other. He might have sworn to the purse, if it was his, and the Court would have been more inclined to believe him. The evidence of the 1st and 2d witnesses to prove that the 1st and 2d prisoners were seen in the neighbourhood shortly after the robbery is absolutely worthless, for there is nothing to

11th May, 1829.- to shew how far the spot where they were seen was from the prosecutor's village.-

Ordered that extract of these proceedings be transmitted to the First Judge of the Provincial Court of Circuit in the Centre Division for his information.

(Sent following letter No 118)

Read further return dated the 27th ultimo, from the Judges of the Provincial Court of Circuit in the Northern Division to precept of this Court dated 12th March last requiring certain explanations on the Quarterly Report.-

(Here enter No 252)

Read letter dated the 4th Instant from the Third Judge on Circuit in the Centre Division reporting his arrival at Chingleput.-

(Here enter No 254)

Read letter dated the 27th ultimo from the First Judge on Circuit in the Western Division reporting his arrival at Coimbatore with that officer's remarks on the Calendar.-

(Here enter No 256)

Read letter dated the 1st Instant, from the Acting First Judge on Circuit in the Northern Division reporting

11th May 1829. reporting his arrival at Chicacole—

(Here enter No 265)

Read letter stated the 8th instant from the Third Judge of the Provincial Court of Circuit in the Northern Division transmitting copy of the Calendar at Masulipatam 2nd Quarterly Sessions of 1829—

(Here enter No 266.)

Read letter stated the 2nd instant from the First Judge on Circuit in the Western Division, reporting his proceedings at Honore—

(Here enter No 272)

Read letter dated 7th instant from the Acting First Judge on Circuit in the Northern Division submitting Copy of the Calendar of persons committed by the Criminal Judge of Rajahmundry to take their trial before the Court of Circuit for the 7th Sessions of 1829.— together with Copies of the Putwahs.—

(Here enter No 273 of 1829)

F. H.

At a Court of the Tondiarre Adalut.

Present,

Thursday 14th May 1829.

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

24
20 C

Read Petition presented by Rungasawmy younger brother of Narrodinsamy Moodely of Chittoor—

(Here enter Misc. Petn No 88 of 1829)

This is a Petition complaining of failure of redress on an application made to the Court of First Quarterly Sessions of 1829 at Chittoor on the subject of certain proceedings of the Magistrate of that District, and which application was rejected by the presiding Judge on the ground that the case referred to in the Petition was not included in the Magistrate's Calendar—

The Court direct that the Petitioner be informed that it is open to him if he thinks proper, to represent his case once more to the same authority (at the Sessions next ensuing) it having been explained by a Circular order from this Court that the circumstance of a case not being included in the Magistrate's

4th May, 1829.

Magistrate's Calendar does not preclude a Judge on Circuit or presiding at a Quarterly Sessions from taking cognizance of any Petition in which such case may be referred to, when sufficient ground may appear to call for explanation.—

1 The Court of Sudder Adalut having reason to believe it to be a prevalent opinion that a Judge on Circuit, or presiding at a Quarterly Sessions, has no authority, under the Regulations, to take cognizance of any proceedings of a Magistrate in cases not included in the Calendars laid before those Courts respectively, resolve to circulate for general information and guidance the following abstract of their proceedings under date 4th April 1822, upon certain references from the then Second Judge of the Provincial Court of Circuit in the Western Division.—

2. It is only necessary to premise, as the occasion of the said references, that upon a Petition to the Judge on Circuit complaining of certain proceedings on the part of a Magistrate (in a case not entered in his Calendars) those proceedings having been called for, the Magistrate made a return that the case coming under the provisions of Section VII. Regulation IV of 1821, his proceedings were

14th May 1829.

were not recorded. The question then arose whether under those circumstances the Judge on Circuit was empowered to interfere.—

3. The Court of Sudder Adalut ruled that as the Magistrate in the case in question was not required by the Regulations in force to make his examinations matter of record, the order of the 2nd Judge calling for copies of the proceedings held by the Magistrate in the case was not regular, "but that it was competent "to the 2nd Judge to refer the Petition "to the Magistrate, calling upon him "to report whether or not the facts "therein alleged were correctly stated."—

4. The authority given to the Court of Circuit to receive petitions, and the obligation imposed on that Court by Clause third Section XL Regulation IX of 1810 to make a report to the Sudder Adalut "whenever it shall appear "to them that the Magistrates have been "guilty of neglect or misconduct in "the discharge of their duty" appeared to the Court of Sudder Adalut to require that the Magistrates should furnish such explanation, when the Judge of Circuit might see fit to call for it.—

5. The Court went on to remark that

read

14th May, 1829.

14th May, 1829.

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that "had the Magistrate on the present
"been able to certify that he had prosecu
"the manner and discharge under the auth
"vested in him by the Regulations the ha
"which relieves him from taking a
"reinstated in the case wherein he is complain
"to decide, must dismiss the said complaint
"orders."

6. The Court having also on the same occasion been called upon by the Government for their report upon the proceedings of both Officers, in consequence of the Magistrate having questioned the legality of the orders which had been issued by the 2nd Judge, we deemed it necessary to state distinctly their opinion "as to the power of a Judge of Circuit to pass orders on petitions, complaining of the proceedings of a Magistrate on cases determinable by him"; and they proceeded accordingly to observe, that in their opinion this power "is confined in the first instance "to a reference for explanation, when sufficient "ground may appear for requiring it, and "that when the Petitioner may allege acts "unauthorised by or in violation of the "express enactments of the Law, which, "as in the present case, may be ascertained "by the Magistrate, it is the duty of the "Judge on Circuit to refer the case to the "Court of Foujdaree Adalut

14th May, 1829.

"the operation of any penal sentence "unwarranted by Law, pending such "reference."

Ordered that extract from these proceedings be circulated to the four Provincial Courts for the guidance of the Judges thereof and the information and guidance of the several Magistrates in each division.

(Sent following letters No. 127)

Read letter dated the 25th September 1828 from the 3d Judge of the Provincial Court of Circuit in the Northern Division, with record of the trial in case No. 1 Nellore Calendar 2d Sessions 1828.

(Reference No. 576 of 1828)

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 Cazee ool Coozat and Mooftees aforesaid and, under the sentence of Sahoo but declared in the futwa, and the provisions contained in clause Second Section IV Regulation XV 1803 and clause third Section II Regulation I 1825

do

4th May, 1829.

do adjudge the prisoners,
1st "Bhagavandass," and
2nd "Ramjee,"
convicted of Robbery attended with personal injury, to receive each one hundred and fifty lashes with a Cat-of-nine-tails 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 their natural lives.

(Sent following letter No 128)

Read letter dated the 29th October 1828, from the Third Judge on Circuit in the Southern Division, with record of the trial in case No 15 Salem Calendar 2nd Sessions 1828.-

(Here enter No 633 of 1828)

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 Cozat and Mooftees of the Sudder Adalut, confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid, and in commutation of the penalty of death declared in

4th May, 1829.

in the futwa, do sentence the prisoner,
"Kistnen,"
to be imprisoned and kept to hard labor in irons on the public roads or other public works for the period of fourteen years.-

(Sent following letter No 129)

Read letter dated the 4th October 1828, from the First Judge of the Court of Circuit in the Centre Division with record of the trial in case No 1 Chittoor Calendar 4th Quarterly Sessions 1828.-

(Here enter No 729 of 1828.)

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 Cozat and Mooftees of the Sudder Adalut, confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid, and acquitting the prisoner,
"Kistnapah,"
direct that he be set at liberty.-

This appears to the Court to be a clear case for acquittal. They do not consider the prosecutor or any of his witnesses entitled to the smallest

smallest credit. It is remarkable that the attempt at arson is stated to have been made on the 8th May, but the prosecutor, although he pretends to have known that the prisoner was the man, did not communicate the matter to the Police till the 15th. The evidence on behalf of the prisoner, though the First Judge does not appear to have given it much weight, has operated strongly on the minds of the Judges in this acquittal.

Ordered that extract of these proceedings be furnished for the information of the First Judge of the Provincial Court of Circuit in the Centre Division.

(Sent following letter No 130)

Read letter, dated the 24th September 1828 from the Third Judge of the Provincial Court of Circuit in the Northern Division with record of the trial in case No 7 of Jaffna Calendar 2d Sessions 1828.

(Here enter No 577 of 1828)

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 Paydarees Adalut, confirm such part of the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, as acquits the

14th May, 1829

three years or in default thereof that he be detained [illegible]

14th May, 1829

the prisoner,

pd "Christopully Vincategandoo"

and direct that he be set at liberty - and, under the sentence of Coloo to be declared in the futwa, do adjudge the prisoner,

2d "Doorgy the wife of Vemale"

whom they convict of homicide only, without premeditated malice, to be imprisoned, without irons, for one month, and then to be released.

(Sent following letter No 131)

Read return, dated the 13th October 1828 from the Third Judge on Circuit in the Southern Division to precept dated 6th September directing to reexamine certain witnesses as to the state of mind of the Prisoner in case No 10 Salem Calendar 1st Sessions 1828.

(Here enter No 620 of 1828)

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 Paydarees Adalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid and acquit the prisoner,

"Govindan,"

but considering him an unfit person to be at large, direct that he be detained

detained in custody, until in the opinion of the Criminal Judge he may be released without danger to the community, or until trustworthy persons can be found to undertake such charge of him as may prevent his doing further mischief.

(Sent following letter No 132)

Read letter, dated the 29th August 1828 from the Second Judge on Circuit in the Centre Division, with record of the trial in case No 20 Cuddapah Calendar 2d Sessions 1828.-

(Decree on No 523 of 1828)

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 Cozat and Mooftee of the Sudr Adawlut, confirm such part of the said futwas of the Cazee ool Cozat and Mooftee as acquits the first, fifth and sixth prisoners, and direct that the prisoner,

6th "Mooneja Shah,"

be set at liberty. But considering that strong suspicion, though not amounting to conviction, attaches to the first and fifth Prisoners, they direct that the prisoner,

1st "Curnum Soobiah,"

be required to find two sureties of three hundred Rupees each, for his good behaviour and appearance when required within three

three years or in default thereof that he be detained for three years in confinement; and that the prisoner,

5th "Vencataramanah,"

be required to find two sureties in one hundred and fifty Rupees each, for his good behaviour and appearance when required within two years, or in default thereof that he be detained for two years in Confinement. And being of opinion that the prisoners,

2nd "Chintalagadoo,"
3d "Kistnadoo,"
and
4th "Nagadoo,"

are not convicted, notwithstanding the futwa of their Law Officers, do accordingly acquit them, but direct that they be severally required to find two sureties in fifty Rupees each, for their good behaviour and appearance when required within one year or in default thereof that they be respectively detained for one year in confinement.-

1. Although the Court have hardly a doubt of the first Prisoner's guilt, the evidence appears insufficient for his conviction. It is deeply to be regretted that a conditional offer of pardon was not made to the third and fourth Prisoners. Their evidence, corroborated by that of the sixteenth Witness, would

have

14th May, 1829.

have been conclusive against the first prisoner as the case stands, however the Judges have been obliged to acquit him.—

2

Ordered that extract of the proceedings be furnished for the information of the second Judge of the Provincial Court of Circuit in the Central Division.

(Sent following letter No 133)

Read again Petition presented under date the 28th October last by Ingadoory Sashoppah of the Zillah of Cuddapah.

(Hereunto Misc. Pets. No 25 of 1828)

The Petitioner describes himself as the younger brother of Vencataramanah the fifth Prisoner in the above case (No 20 Cuddapah Calendar Second Sessions 1828) and applies for his release, and also for that of Soobiah the first Prisoner.

Ordered that the sentences passed on the said Prisoners respectively with security for good behaviour, in two sureties of 150 Rupees each, for two years, or two years imprisonment, as regards Vencataramanah, and two sureties of 300 Rupees each for three years or imprisonment for that period, as regards Soobiah, be communicated to the Petitioner.

Read letter, dated the 4th August 1828 from the Second Judge of the Court of Circuit in the Southern Division, enclosing the

F. U.
14th May 1829.

the Persian and English translations of the Proceedings in cases No 4 and 19 Combaconum Criminal Calendar 1st Sessions 1828 called for under date the 19th June last.—

(Here enter No 404 of 1828)

Read also letter dated the 11th April 1828 from the First Judge on Circuit in the Southern Division,— submitting copy of a return to his precept to the Magistrate of Trichinopoly in the matter of Sinnamaul prisoner in case No 4 on the Combaconum Calendar 1st Sessions 1828.—

(Hereunto No 250 of 1828.)

Also read letter dated the 5th June 1828 from the Provincial Court of Circuit in the Southern Division, with copy of a letter from the Criminal Judge of Combaconum reporting the death of a prisoner in case No 4 Combaconum Calendar 1st Sessions 1828.—

(Hereunto No 357 of 1828)

The Court being of opinion that several of the objections which have been taken by their Law Officers in the above Futwa, to the evidence in this case, are founded on scrupulous distinctions as repugnant to the principles of equal justice, do require them to declare by a second Futwa "to what specific punishment the prisoner would have been liable under the Mohammudan Law

Suppading

14th May 1829.

"supposing the evidence of the first, second, "third, seventh and eighth Witnesses not "to have been subject to the objections "stated in the said futwa)."—

Ordered that a extract of the proceedings be translated and delivered to the Cazeedal Coozabandi Mooftee of the Tuyduree Adalut.—

Read letter, dated 7th September 1828 from the Second Judge on Circuit in the Centre Division with record of the trial in case No 10 Cuddapah Calendar 2nd Sessions 1828.

(Here enter No 550 of 1828.)

The objections taken in the above futwa to the evidence of the first, second, fifth, sixth, seventh and eighth Witnesses, being repugnant to the principles of equal justice, the Court of Tuyduree Adalut do hereby require their Law Officers to declare by a second futwa "what would "be the futwa if the evidence of the said "Witnesses had not been subject to the "objections stated."—

Ordered that a extract of the proceedings be translated and delivered to the Cazeedal Coozabandi Mooftees of the Tuyduree Adalut.—

Cr. Cl.

7th May 1829 trial in case No 20 of

Y. M.

At a Court of the Foujdaree Adalut.

Present,

Monday, 18th May, 1829. F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge.

Read letter dated the 29th ultimo from the Provincial Court of Circuit in the Western Division, submitting the Reports prescribed by Section XXIV Regulation X of 1810 received from the several Criminal Judges within their Division for the month of March last.—

(Here enter No 201)

Canara. The prisoner in case No 19 of the Report No 5 submitted by the Criminal Judge in the Talluk of Canara, is ordered "to be released on giving security of fifty Rupees "for 6 Months"—the Judges desire that the Officer be directed, thro' the Provincial Court of Circuit, in future to add to the entry in his Report the period for which the accused would be liable to be detained in custody in default of his finding the required security.—

Tellicherry. In the Column of remarks 2. in the Report No 5 submitted by the Joint Criminal Judge of Malabar, the Tahsildar is reported to have stated "that the prisoner" in case No 15 "was sent

17th May, 1829.

"sent to the Criminal Court on the 27th January "but as he did not arrive in time at the "Criminal Court the Assistant Magistrate "was called upon, but he assigned "no reasons for the delay." The inconsistency of this explanation which the Provincial Court of Circuit are directed to call upon the Joint Criminal Judge to account for, is apparent when compared with the date of the prisoners apprehension. It thence appears that the prisoner was not sent to the Criminal Court but only apprehended on the 27th January and that his departure from the Talook did not take place before the 28th of March. The Provincial Court will call upon the Magistracy to explain this delay.

3. The Judges desire that the Joint Criminal Judge of Malabar be directed by the Provincial Court of Circuit to amend the sentence passed by him on the prisoners in case No. 24 of his Supplemental Report agreeably to the Circular orders of this Court of date the 31st of October 1828.

4. The Joint Criminal Judge at Canara has omitted in the sentences passed by him on the prisoners in Nos 9 and

13th May, 1829.

and 11 of his Supplemental Report to record the period for which the Securities are to be held responsible for the good behaviour of the prisoners. The Judges desire that these omissions be brought to the notice of the Joint Criminal Judge. — The Judges remark

Malabar. 5. that in Malabar a delay takes place in the disposal of cases not usual in the Criminal Courts elsewhere. The Criminal Judge in March disposed of only 2 out of 19 cases, and the Joint Criminal Judge of only 2 out of 13. The Provincial Court should attend to this and if it occurs again call for explanation of it's cause.

6. The Judges having observed that no entry is made in the Report from the Criminal Judge of Malabar of the grounds of the release of the prisoners in No 40, desire that such may be made in future.

Ordered that extract of these Proceedings be forwarded to the Provincial Court of Circuit in the Western Division requiring them to make the necessary communications to the Criminal Judges of Canara and Malabar and to the Joint Criminal Judges at Tellicherry and Canara.

Precept

Read letter dated the 15th December 1828 from the Second Judge of the Court of Circuit in the Western Division, submitting case No 2 Auxiliary Court Dinalahar Calendar 4th Quarterly Sessions 1828.—

(Here enter No 715 of 1828)

The First, Second and Third Criminal Judges, on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners,

1st "Malayan Kappatil Chundooty",

and

2d "Pootamparail Charam",

is sufficient to convict each of them of the crime of Murder accompanied by Robbery, under the authority with which they are vested by Clause First Section II Regulation I of 1818, convict them thereof, and under Section X Regulation VIII 1802 sentence each of them to suffer death, by being hanged so soon as conveniently can be after the receipt of this warrant at a spot to be selected by the Joint Criminal Judge, in the immediate vicinity of the place where the murder was committed their bodies to be subsequently suspended in chains on a high gibbet, to be erected on the said spot.—

The said Judges confirm such part of the finding of the Cazee cum Cooja

18th May 1829

Cooja and Mooftees of the Foujdaree Adaulut as acquits the prisoner,

2d "Cabamkate Amboo",

but considering that strong suspicion though not amounting to conviction, attaches to him, they direct that, under Clause sixth Section II Regulation XV of 1803, he be required to find two sureties, in fifty 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.

The Foujdaree Court think it impossible to doubt the guilt of the 1st and 2nd Prisoners. The same evidence which convicts them of the robbery convicts them of the murder also, and accordingly they have approved of the recommendation of the Judge who presided at the trial, that they should be hanged in chains on a spot near the place where the crime was committed.

2. The Foujdaree Court in their recent communications to Government connected with the new Military Bazar Regulation and the reports of the Judges on their Circuits have already sufficiently noticed the irregularity of the Commissariat officers interfering with the civil native police.

Ordered that a extract of this proceedings

precept returnable within two weeks from the date of its receipt.—

(Sent following Precept No 135)

Read letter dated the 30th ultimo from the Provincial Court of Circuit in the Northern Division submitting the Reports prescribed by Section XXXV Regulation X. of 1816 from the Criminal and Joint Criminal Judges within their Division for the Month of January last, together with their correspondence thereon.—

(Hereunder No 268)

Nellore. 1. Case No 1 of the Report No 5 submitted by the Criminal Judge of Nellore appears from the record of the charge to be a case of petty Cattle stealing which is declared cognizable by the Magistrate and Heads of District Police under the provisions of Section III Regulation VI of 1827. The Judges desire that this be brought to the notice of the Magistrate, and that his attention be called to the Circular Orders of this Court under date 31st December 1828.—

Guntoor. 2. The Judges gather from the case No 2 of the Report No 5 from the Criminal Judge of Guntoor as entered in the returns that the prosecutor must have perjured himself in the most wilful and deliberate manner not only in the crime ("of uttering Counterfeit Madras Rupees") charged against the prisoner stated to have

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been proved, but the Prosecutors own witnesses are stated to have declared that the money paid by the Prisoner in exchange for the Cloth was good, this opinion was moreover confirmed by two Comities who were in Company with the prosecutor, and pronounced a similar judgment on the money.— The Judges desire that the Criminal Judge be called upon to report his reasons for abstaining from instituting proceedings against this prosecutor for perjury.—

Masulipatam 3. Neither in the Report from the Criminal Judge of Masulipatam nor in the Supplemental Report submitted by the Joint Criminal Judge at Masulipatam, have these Officers recorded the grounds of the release of the prisoners— the Judges desire that such entries may be made in future.—

Ordered that an extract of these Proceedings be forwarded to the Judges of the Provincial Court of Circuit in the Northern Division requiring them to make the necessary communications to the Magistrate of Nellore, the Criminal Judge of Guntoor, and the Criminal and Joint Criminal Judges of Masulipatam— Precept returnable within two weeks from the date of the receipt thereof.—

(Sent following Precept No 136)

16th May 1829

17th May 1829.

proceedings be sent to the Second Judge of the Court of Circuit in the Western Division for his information.

(Sent following letter No 137)

Read letter, dated the 29th October 1828 from the Third Judge Provincial Court of Circuit in the Northern Division, with record of the trial in case No 6 Rajahmundry Calendar 2nd Sessions 1828.—

(Here enter No 101 of 1829)

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 Sudder Adalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and acquit the prisoner,

"Pandeyala Mamedy,"

but considering him an unfit person to be at large, direct that he be detained in custody, until in the opinion of the Criminal Judge founded on the report of the Medical Officer he may be released without danger to the community, or until trustworthy persons can be found to undertake such charge of him as may prevent his doing further mischief.—

(Sent following letter No 138)

Read letter, dated the 13th December 1828 from the Third Judge on Circuit in the Southern Division, with record of the trial

17th May 1829.

trial in case No 20 Salem Calendar 2nd Sessions 1828.—

(Here enter No 710 of 1828)

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 Sudder Adalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and acquit the prisoner,

"Vincatyghan,"

but considering him an unfit person to be at large, direct that he be detained in custody, until in the opinion of the Criminal Judge founded on the report of the Medical Officer he may be released without danger to the community, or until trustworthy persons can be found to undertake such charge of him as may prevent his doing further mischief.—

The examination of the 5th and 6th Witnesses should have preceded the arraignment of the prisoner. The Court direct that this be intimated to the Third Judge of the Provincial Court of Circuit in the Southern Division who presided at the trial.

(Sent following letter No 139)

Read

4th May 1829.

proceedings be sent to the Second Judge of the Court of Circuit in the Western Division for his information.

(Sent following letter No 137)

Read letter, dated the 29th October 1828 from the Third Judge Late on Circuit in the Northern Division, with record of the trial in case No 6 Rajahmundry Calendar 2nd Sessions 1828.—

(Here enter No 101 of 1829)

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 Cazeecool Coozat and Mooftees of the Sudder Adalut, confirm the said futwa of the Cazeecool Coozat and Mooftees aforesaid, and acquit the prisoner,

"Pendeyala Mamedy,"

but, considering him an unfit person to be at large, direct that he be detained in custody, until in the opinion of the Criminal Judge founded on the report of the Medical Officer he may be released without danger to the community, or until trustworthy persons can be found to undertake such charge of him as may prevent his doing further mischief.—

(Sent following letter No 138)

Read letter, dated the 15th December 1828 from the Third Judge on Circuit in the Southern Division, with record of the trial

4th May 1829.

trial in case No 20 Salem Calendar 2nd Sessions 1828.

(Here enter No 100 of 1829)

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 Cazeecool Coozat and Mooftees of the Sudder Adalut, confirm the said futwa of the Cazeecool Coozat and Mooftees aforesaid, and acquit the prisoner,

"Vencatyghan,"

but considering him an unfit person to be at large, direct that he be detained in custody, until in the opinion of the Criminal Judge founded on the report of the Medical Officer he may be released without danger to the community, or until trustworthy persons can be found to undertake such charge of him as may prevent his doing further mischief.—

The examination of the 5th and 6th Witnesses should have preceded the arraignment of the prisoner. The Court direct that this be intimated to the Third Judge of the Provincial Court of Circuit in the Southern Division who presided at the trial.

(Sent following letter No 139)

18th May 1829.

Forwarding letter from the Criminal Judge of Salem informing of the death of the Prisoner Mahamud Hasseen in case No 8 of the Calendar 2nd Sessions of 1828.

(Vide letter No 189 of 1829)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners,

2nd "Jamal Khan,"

and

3rd "Shaik Ryder,"

is sufficient to convict them of the crime of Rape, do under the authority with which they are vested by Clause first Section II Regulation I of 1818 convict them thereof, and under clause third Section VII Regulation XV of 1803 adjudge each of them respectively to receive one hundred and fifty lashes with a Cat of nine tails 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 142)

Read the second futwa delivered in case No 4 Combaconum Calendar 1st Sessions 1828 by the Cazee ool Coozat and Mooftees of the Tanjore Adalut.—

The First, Second and Third Puisne Judges

No 4 Combaconum Calendar 1st Session 1828

of the Governor.

5 F N.

18th May, 1829.

Judges having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Criminal Law Officer and the futwas of the Cazee ool Coozat and Mooftees of the Tanjore Adalut concerning the conviction of the prisoners,

2nd "Mairhen,"

6th "Pettacootty,"

7th "Soolen," and

11th "Valamooroogun,"

of the crime of Robbery, and in the conviction of the prisoners,

8th Caroombayaramoopan," and

12th "Sinnamal,"

of the offence of receiving plundered property knowing it to have been obtained by Robbery and under Clause third Section IV Regulation XV of 1803 do adjudge the said prisoners

2nd "Mairhen,"

6th "Pettacootty,"

7th "Soolen," and

11th "Valamooroogun,"

to receive each one hundred and fifty lashes with a Cat of nine tails, 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 thirteen years. And under the sentence declared in the said futwas and under the provisions of Clause second Section IV Regulation VI of 1822 do adjudge the prisoner,

8th "Caroombayaramoopan,"

to receive one hundred lashes with a cat

of

13th May 1829.

Forwarding letter from the Criminal Judge of Salem informing of the death of the Prisoner Mahamud Hadeem in case No 8 of the Calendar 2nd Sessions of 1828.

(Vide letter No 189 of 1829)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners,

2nd "Jamal Khan,"

and

3rd "Shaik Ryder,"

is sufficient to convict them of the crime of Rape, do under the authority with which they are vested by Clause first Section VI Regulation I of 1818 convict them thereof and under clause third Section VII Regulation XV of 1803 adjudge each of them respectively to receive one hundred and fifty lashes with a Cat of nine tails 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 142)

Read the second futwa delivered in case No 4 Combaconum Calendar 1st Sessions 1828 by the Cazee ool Coozat and Mooftees of the Tanjore Adalut.—

The First, Second and Third Puisne Judges

No 4 Combaconum Calendar 1st Session 1828

13th May, 1829.

Judges having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Criminal Law Officer and the futwas of the Cazee ool Coozat and Mooftees of the Tanjore Adalut concur in the conviction of the prisoners,

2nd "Mariyan,"
6th "Pettacootty,"
7th "Soolen," and
11th "Valamooroogun,"

of the crime of Robbery, and in the conviction of the prisoners,

8th Caroombayaramoopan," and
12th "Sinnamal,"

of the offence of receiving plundered property knowing it to have been obtained by robbery, and under Clause third Section IV Regulation XV of 1803 do adjudge the said prisoners

2nd "Mariyan,"
6th "Pettacootty,"
7th "Soolen," and
11th "Valamooroogun,"

to receive each one hundred and fifty lashes with a Cat-of-nine tails, 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 thirteen years. And under the sentence of forfeiture declared in the said futwas and under the provisions of Clause second Section IV Regulation VI of 1822 do adjudge the prisoner,

8th "Caroombayaramoopan,"

to receive one hundred lashes with a cat

7

-of-nine-tails 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 five years, and the prisoner,

12th "Sinnamal"

to be imprisoned and kept to hard labor for and during the period of two years.-

But, notwithstanding the said sentences, being of opinion that only strong suspicion, not amounting to conviction, attaches to the prisoners,

2d "Canen,"
4th "Linnapiel,"
5th "Patchay,"
9th "Mullacoundan,"
10th "Nootoosimpen," and
17th "Caraspen,"

they direct that each of them be detained in confinement for one year unless they severally find two sureties in fifty Rixdrs each, for their good behaviour and appearance when required within that period.-

The said Judges acquitting the other prisoners,

15th "Vellian," and
16th "Sillalee,"

direct that, as regards this case, they be forthwith released.-

The First Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence

were

No 19 Combaconum Calendar 1st Sessions 1828.

evidence before them being of opinion that the proof against the prisoners,

1st "Valamoaragen,"
2nd "Vellien,"
5th "Sillalee,"
8th "Mootien, son of Sayladan,"
9th "Mootien, son of Parcatonly,"
20th "Veerapen,"
27th "Cara Rungen,"
34th "Pulla Curpen, and
35th "Poranchelan,"

is sufficient to convict them of the crime of attempting by violence to break Jail, do under the authority with which they are vested by clause first Section II Regulation I of 1818, convict them thereof, and sentence them severally to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of three years, in addition to any former sentence which may be in force against them.-

The evidence is objected to on two grounds, 1st that the Witnesses contradict each other, and 2ndly, that they appear in the light of prosecutors. The Court cannot discover any contradictions of such a nature as to discredit the evidence, which according to their view of it, goes to

to convict all the Prisoners, for they all appear to have taken an active part in the insurrection.—

(Sent following letter No 143)

Read the second Futwa delivered in case No 10 Cuddapah Calendar 2nd Sessions 1828 by the Cazee ool Coozat and Mooftees of the Foujdaree Adalut.—

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 Foujdaree Adalut, convict the prisoner Bogum Condadoo of murder, and under the second Futwa of the Cazee ool Coozat and Mooftees aforesaid, and the provisions of Section X Regulation VIII of 1802 adjudge the said prisoner,

"Bogum Condadoo,"

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

(Sent following letter No 143 A.)

Read letter, dated the 27th September 1828 from the Second Judge late on Circuit in the Northern Division, with record of the trial in case No 14 Chittagong Calendar 1st Sessions 1828.— (Here enter No 529 of 1828)

The Court of Foujdaree Adalut in conformity with the provisions of Clause third Section II Regulation XV of

18th May 1829

1803, 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.—

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

24th

No 20

Read return dated 9th Instant, from the Provincial Court in the Centre Division to precept dated 30th ultimo ordering communication to the Criminal Judges of the Court's remarks on the Quarterly reports ending the 31st December 1828.—

(Here enter No 279)

Read return dated the 12th Instant, from the Provincial Court of Circuit in the Centre Division to precept dated 6th Instant ordering communication to the Criminal Judges of the Court's remarks on the Criminal reports for Telenaury last.—

(Here enter No 280)

F.C.

At a Court of the Foujdaree Adalut,

Present,

Thursday - 27th May 1819 } F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges

2 L. C. 2 P.

Read letter dated the 30th Ultimo from the Provincial Court of Circuit in the Northern Division submitting the Reports prescribed by Section XXXV Regulation X. of 1816 from the General Criminal and Joint Criminal Judges within their Division for the month of February last, together with their correspondence thereon.-

Here enter No. 269 to 289.

Nellore- 1. The Judges remark with concern the delay in forwarding the Prisoner, in case No. 6 of the Report No. 5 submitted by the Criminal Judge of Nellore, amounting to 33 days- More particularly as the prisoner was ultimately released.-

2. The Court have repeatedly brought to the notice of the Magistrates the illegality of the Police Officers proceedings in referring to the Magistracy, respecting cases cognizable by the Criminal Court thereby occasioning very considerable and unnecessary delay in the transmission of prisoners to the Criminal Courts.- By clause fourth Section XXVII. Regulation XI of 1816 the Tahsildar is directed to act upon his own responsibility in sending cases to the Criminal Court, without reference to any other authority- The

Tahsildar

21st May 1829.

Tahsildar should understand that, after he has taken evidence sufficient to satisfy himself of the prisoner's guilt, notwithstanding other prisoners remain to be appre-hended - or other witnesses to be examined; the prisoner of whose guilt he is satisfied, and the witnesses already examined, should be sent off at once, to the Criminal Court, with a report, stating that the others will be afterwards forwarded.-

3 The Judges desire that this be once again brought to the notice of the several Magistrates, and trust that these remarks may have the effect of inducing Tahsildars to attend more strictly to their duty, but should the result prove otherwise, they desire the Magistrates will compel them to do so, and prevent them from making unnecessary references to the Magistracy.-

4 Ordered that extract from these proceedings be forwarded to the four Provincial Courts for the guidance of the several Magistrates.-

5 Case No. 3 of this Report appears from the record of the charge to have been cognizable by the Native Head of Police, and should accordingly have been disposed of by that Officer under the provisions of Section III. Regulation VII of 1827.- /sent following Circular letter No 147/

6. The remarks that have been made above on Case No 6 of the Nellore Calendar are applicable to Nos 7 & 9 of the Report No 5 from Chicacole - the Judge is-

Chicacole.

concerne the delay in these cases not to have been

21st May 1829.

Masulipatam

been satisfactorily accounted for.-

7 The Judges desire that the Provincial Court will intimate to the Joint Criminal Judge at Masulipatam that the reasons for Cases Nos 2, 3, & 7 being reported still under examination are considered insufficient.-

Guntoor

8 The Provincial Court of Circuit are directed to call upon the Criminal Judge of Guntoor to explain the causes which have occasioned the delay in disposing of numerous cases before his Court - the Report No 5 shewing that sentence has been passed in only two cases of the many delivered to him in the month of February, now under review.-

9 Ordered that Extract of these Proceedings be forwarded to the Provincial Court of Circuit in the North-ern Division requiring them to make the necessary communications to the Officers herein named - Precept return-able within two weeks from the date of its receipt.- /sent following precept No 148/

Read letter dated 29th Ultimo, from the Provincial Court of Circuit for the Western Division submitting a correspondence with the Criminal Judge in Malabar.- /Here enter No 260 of 1829/

1. In these papers the Criminal Judge in Malabar requests a reference to this Court, on the question, whether in criminal cases cognizable and punishable by the Criminal Court itself, it is impe-rative on the Criminal Judge to grant to the accused "the privilege of a defence "and witnesses".-

2. The doubts which the Cri-minal Judge entertained on this head seem to have had their origin, in the legislature

25th May 1829.

legislature specially providing for this, in cases where specific crimes have newly been made cognizable by the Criminal Court, but omitting to provide for it in ~~Section~~ IX Regulation X 1816, granting them general jurisdiction originally.-

3. The reason for this omission seems to have been that the ~~section~~ in question not only alluded to cases finally adjudicable by the Criminal Court, but to those also which it may be their duty to commit for trial before a higher tribunal, where alone it is necessary in that event to enter into the prisoners defence.-

4. The universal practice of all the Courts from their first institution - the most obvious principles of justice the general analogy of the code and the fundamental rules of British law grant a "defence and witnesses" to a prisoner not as matter of privilege, but of right - and so essential do the Judges consider this to the due administration of justice, and that humane consideration for the accused which ought to distinguish every British tribunal, that any neglect of so indispensable a duty would necessarily call for the severest notice.-

5. The Judges, on the 28th January 1828, expressly stated that this must be the course of proceeding, in all cases of crime punishable under the Mohamedan law - they now desire further to explain that in cases punishable under the Regulations the same course of proceeding should be observed, whether specially directed in the Regulation, or not -; and lest

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2 / F 11

25th May 1829.

lest any other judicial officer should entertain opinions similar to those of the Criminal Judge in Malabar, they direct that extract from these proceedings be sent to the 4 Provincial Courts by precept, requiring them to issue them in the same manner, to the respective Criminal Courts, for their guidance.-

(Sent following Precept & No 149)

Ordered that extract of these proceedings be sent to the Acting Secretary to Government in the Judicial Department to be laid before the Right Honorable the Governor in Council agreeably to the orders of Government dated the 17th March 1826.-

Ord. Jud. Cons. 21. 24 20 L

(Sent following letter & No 153)

27th May 1829 legislature specially providing for this ..

F. H.

At a Court of the Fujdaree Adalut

Present,

Monday, 25th May, 1829.

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

Read letter dated the 21st October 1828 from the First Judge of the Court of Circuit in the Centre Division, with record of the trial in case No 5 Chittoor Calendar 4th Quarterly Sessions 1828.

(Hereunto No 9 of 1829)

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 Fujdaree Adalut confirm the said futwa of the Cazee-ool Coozat and Mooftees aforesaid and acquitting the prisoners,

1st "Suhadavum"
2nd "Ramasamy" "Talier and
3rd "Govindoo"

direct that they be set at liberty.

(Sent following letter No 154)

There is not the slightest evidence against the prisoners except their pretended confessions before the Police

25th May 1829.

Police Officers, and even if the proof of these confessions had been better than it is, the prisoners must have been acquitted. The Court see no ground for requiring security from them, and have therefore ordered them to be released unconditionally. The Court also direct that the First Judge be required to release the 4th Prisoner, Iyamperpat Ramasawmy, unconditionally, or to cancel the bail bond if he has found sureties.—

Ordered that extract of these proceedings be transmitted to the First Judge of the Provincial Court of Circuit in the Centre Division with a Precept returnable without delay.—

(Sent following Precept No 155)

Read letter, dated the 20th December 1828 from the Second Judge on Circuit in the Centre Division, with record of the trial in case No 1 Bellary Calendar 2nd Sessions 1828.—

(Vide enclosure No 725 of 1828)

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 Poujdaree Adawlut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and acquitting the prisoners,

25th May 1829.—

1st "Nurdinmadoo,"
2nd "Boosaneegadoo,"
3rd "Dafsaneegadoo, and
4th "Nursegadoo,"

direct that they be set at liberty.—

The Foujdaree Court consider all the prisoners entitled to a full acquittal. It is evident that they were seized without any reasonable ground of suspicion, and then followed their alleged confessions, and the pretended discovery of the stolen articles. There appears to the Court too much reason to believe that the case was got up merely for the purpose of obtaining the remand offered by the Magistrate.—

Ordered that extract of these proceedings be furnished for the information of the Second Judge of the Provincial Court of Circuit in the Centre Division.—

(Sent following letter No 150)

Read the second futwa delivered in case No 14 Chicacole Calendar 1st Sessions 1828 by the Cazee ool-Coozat and Mooftees of the Foujdaree Adawlut.—

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

25th May 1829.

Cazeecoal Coogat and Mooftees of the Tongdaree Adalut, convict the prisoner Goadeevadah Veeradoo of Murder, but, being of opinion, under the circumstances of the case, that the punishment to which the Prisoner is liable under the second futwa of the Cazeecoal Coogat and Mooftees aforesaid, would in this instance be too severe, do under the authority with which they are vested by Clause Second Section VI Regulation I of 1825 adjudge the said prisoner,

"Goadeevadah Veeradoo"

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 157.)

Read letter, dated the 23rd October 1828 from the First Judge of the Court of Circuit in the Centre Division, submitting record of trial in case No 12 Chittoor Calendar 4th Quarterly Sessions 1828.—

(Here enter No 50 of 1829.)

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

F H
25th May 1829.

Officer and the futwa of the Cazeecoal Coogat and Mooftees of the Tongdaree Adalut, confirm the said futwa of the Cazeecoal Coogat and Mooftees aforesaid, and acquitting the prisoners,

1st "Mootoo" Maty

and

2nd "Vellundrum,"

direct that they be set at liberty.—

(Sent following letter No 158.)

Read letter dated the 27th October 1828 from the First Judge of the Court of Circuit in the Northern Division with record of the trial in case No 1 Masulipatam Calendar 3rd Quarterly Sessions 1828.—

(Here enter No 640 of 1828)

The objection taken in the above futwa to the evidence of the second Witness (by reason of her sex) being repugnant to the principles of equal justice, the Court of Tongdaree Adalut do hereby require their Law Officers to declare by a second futwa "what would be the futwa if the evidence of the said "second Witness had not been subject "to the objection stated".—

Ordered that extract of these proceedings be translated and delivered to the Cazeecoal Coogat and Mooftees of the Tongdaree Adalut.—

Read letter dated the 11th October 1828, from the Third Judge of the Provincial

25th May 1829.

Provincial Court of Circuit in the Northern Division, with record of the trial in case No 19 Nellore Calendar 2nd Sessions 1828.

(Here enter No 608 of 1828)

The Court of Foujdaree Adalut do hereby require their Law Officers to declare by a second futwa, "to what "specific punishment the prisoner "would have been liable under the "Mahummudan Law if he had been "convicted by full legal evidence."

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

Read letter, dated the 22d December 1828, from the Third Judge on Circuit in the Southern Division, with record of the trial in case No 4 Salem Auxiliary Court Calendar 2nd Sessions 1828.

(Here enter No 728 of 1828)

The Court of Foujdaree Adalut do hereby require their Law Officers to declare by a second futwa what "would be the futwa if the evidence "of the second and fourth Witnesses had "not been subject to the objections stated."

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

Read

25th May 1829.

Read return dated the 8th Instant, from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 30th ultimo directing that Court to furnish the Criminal and Joint Criminal Judges of Malabar with the necessary extracts from this Court's proceedings of date the 30th April.

(Here enter No 280)

Read return dated the 28th ultimo, from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated 18th April directing that Court to furnish the Criminal Judge of Salem with a copy of the extract of the proceedings of this Court under the same date.

(Here enter No 296.)

Read return dated the 15th Instant, from the Provincial Court of Circuit in the Centre Division, to precept dated 11th May directing that Court to furnish to the several Criminal Judges this Court's remarks on their Criminal Reports for January last.

(Here enter No 298)

Read return, dated the 15th Instant, from the Third Judge on Circuit in the Centre Division, to precept dated 10th ultimo with this Court's remarks

25th May 1829

remarks on the Calendars of the Criminal Judges of Bellary and Cuddapah for the 1st Sessions of 1829.-

(Here enter No 293.)

Read letter dated 17th instant from the Acting First Judge on Circuit in the Northern Division Reporting his intention to proceed to Masulipatam.-

(Here enter No 294 of 1829.)

Read letter dated the 6th Instant, from the Provincial Court of Circuit in the Southern Division forwarding the Reports prescribed by Section XXXV Regulation X of 1816 for the Month of February last.-

(Here enter No 274.)

Read letter dated the 12th Instant, from the Provincial Court of Circuit in the Northern Division, forwarding the Reports No 6 and 8 and the Supplemental Report prescribed by Section XXXV Regulation X of 1816 received from the Criminal Judge of Guntoor for March last.-

(Here enter No 290.)

Wednesday 27th May 1829.

24 U
20 -

At a Court of the Foujdarree Adalut

Present,

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

Read letter dated the 23rd Instms, from the Provincial Court of Circuit in the Northern Division with copy of a reference under date the 10th from the Criminal Judge of Nellore.-

(Here enter No 237.)

1. The Criminal Judge doubts the propriety of sentencing a wretch, or demanding security from, a person already convicted and undergoing his sentence, for a second crime committed before that sentence was passed.-

2. This question appears to have been very fully considered and determined by the Judges of this Court so far back as the 8th February 1811, as will be seen by the following extract from their proceedings under that date.-

3. "The Court direct that the Courts "of Circuit be instructed that a prisoner "who has been tried and convicted of "robbery, and received a judgment of "the specific penalty, cannot be tried "on another charge subsequently brought

against

"against him, for an offence in all respects
"the same, committed antecedently to his trial
"and conviction. But if the robbery subse-
=quently charged against him were ac-
"companied with homicide or other act of
"aggravation in incurring a greater punish-
=ment than that which he may have
"been sentenced to suffer, or if the charge
"be for murder, or if for robbery only, and
"the case already tried not having been
"fully proved, the Jurors may have declared
"the prisoner liable to discretionary
"punishment only, the measure of which,
"in consideration of circumstances altering
"the nature and diminishing the criminality
"of the offence, may have been fixed by
"the Court below the specific penalty
"in either of these cases such prisoner
"must be brought to trial on the further
"charge, and if the further charge be
"proved, the punishment pronounced
"against him on the former trial will
"be lost in that which necessarily follows
"conviction of the greater offence."

4. The present Judges concur entirely in the propriety of these orders, when an offence is newly discovered, which had been committed before sentence

sentence had been passed for that of which a prisoner is convicted, if the new offence be minor or equivalent to that of which the prisoner has been convicted, the punishment for it merges in the sentence the prisoner is already undergoing; but if the new crime be of a more grave description than that of which the prisoner has been convicted, its superior enormity requires a new trial, and the sentence passed on it, if more severe, will no doubt take into consideration the minor sentence the prisoner is already undergoing for the lower offence.

5. The Judges, being of opinion that the observance of this rule by the Criminal Courts generally is desirable, Ordered that extract of these proceedings be transmitted to the Four Provincial Courts of Circuit to be by them communicated for the information and guidance of the several Criminal and Joint Criminal Judges within their respective jurisdictions, precept returnable within three days from and after its receipt.

Text of covering precept No. 159.

Ordered

27th May 1829.

Ordered also that extract of these proceedings be sent to the Acting Judicial Secretary to Government agreeably to orders of Government dated the 19th March 1820 –

Gen. R. 224

(Sent following letter No 160)

Read letter dated 30th Ultimo from the Third Judge late on Circuit in the Northern Division with the English record of Case No 19 on the First Chicacole Calendar Second Sessions 1828, called for in this Courts letter of the 7th January last –

(Hereunto No 264)

1. The Court of Foujdaree Adalut have attentively considered the proceedings in this case, and are quite at a loss to conceive how the Third Judge could have thought the proof adduced in this case sufficient for the conviction of any of the prisoners – On the trial there was evidence to prove the declarations of the prisoners before the Police Officer, and the Criminal Judge, and evidence, such as it is, to prove that certain articles Nos 1, 2, 3, and 5, belong to the prosecutor, but there is not a tittle of evidence to prove where those articles came from, nor except the oath of the prosecutor, is there any proof that a robbery was actually committed in his house – Before the

Sentence

2/ F. H.
27th May 1829.

the Criminal Judge all the prisoners denied that they were concerned in the alleged robbery of the prosecutor's house, but they acknowledged that they gave the alleged declarations before the Police Officer – These declarations on the face of them bear evident marks of having been fabricated, but be that as it may, they are not corroborated by any circumstantial evidence –

2. Under these circumstances the Judges are of opinion that all the prisoners were entitled to their acquittal, and they accordingly resolve to direct the Third Judge to recall his warrant so far as regards the third, fourth and eighth Prisoners, and to order them as well as the second prisoner to be released unconditionally –

Ordered that extract of these proceedings be transmitted to the Third Judge of the Provincial Court of Circuit in the Northern Division by Precept returnable without delay –

(Sent following Precept No 161.

Read again letter dated 29th December last from the 2nd Judge late on Circuit in the Centre Division submitting Chingleput Calendar 2nd Sessions 1828 –

(Here enter No 234 of 1828)

The

in

The record of the proceedings held by the 2nd Judge in case No 19 of the above Calendar, which according to the remark entered therein is to be referred to the Foujdaree Adalut not having been received.—

The Court direct that the Second Judge late on Circuit 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 eight days from the date of the receipt of the precept.—

(Sent following precept No 162

Read again letter dated 17th December last, from the Third Judge late on Circuit in the Northern Division, submitting Chicacole Calendar 2nd Sessions 1828.—

Vide enter No 3.

The record of the proceedings held by the Third Judge in case No 2 of the above Calendar, which according to the remark entered therein is to be referred to the Foujdaree Adalut not having been received.—

The Court direct that the Third 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 above mentioned within

Vide Sentence

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

(Sent following Precept No 163

Read letter dated the 8th December 1828 from the Second Judge of the Court of Circuit in the Western Division, with record of the trial in case No 4 Malabar Auxiliary Court Calendar 4th Quarterly Sessions 1828.—

(Vide enter No 693 of 1828)

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 Adalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and acquit the prisoner,

"Polayan Tachan Tally,"

but considering that strong suspicion, though not amounting to conviction, attaches to him, 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.—

The Court are of opinion that it would be dangerous to convict the prisoner on the evidence which has

has been adduced. The motive assigned for the prisoner's commission of the act seems rather an improbable one. At all events the Court think the previous circumstances afforded to the prosecutor and his family as strong a motive for falsely charging the prisoner, as they did to the prisoner for committing the act. Then the Court do not know the age of Pothichy, the first and principal Witness. all that they know of her is, that she is a poor ignorant and degraded being. The second Witness, a female of the same class, says in effect that her attention was attracted by the sound of the first blow, and that she saw the prisoner inflict the others. She was at the distance of three Kandapands from the spot. The Court do not exactly know what distance that is, but the Witness Kaylong Velleyan who was at the same place, expressly says that people standing in the compound of the deceased could not be seen from that place in consequence of intervening Plantain trees &c. The second Witness swears that the murder was committed by a Katy Kaal belonging to her Master and given by him to the prisoner for working with. Her swearing to this detracts very materially from the credibility

credibility of her testimony, for it is certainly impossible that she could recognize it at the distance she appears to have been. The Court observe too that before the Police Officer strong attempts were made to implicate the 5th Witness Vellyan with the prisoner.

Ordered that extract of these proceedings be furnished for the information of the Second Judge of the Provincial Court of Circuit in the Western Division.

(Sent following letter No. 164.

Read letter dated the 13th February last from the Second Judge of the Court of Circuit in the Western Division with record of the trial in case No. 11 Malabar Auxiliary Court Calendar 1st Quarterly Sessions 1829.

(Seventeen No. 116 of 1829)

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 Tanjadare Adalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid which convicts of murder and awards Kisaas and under the provisions of Section X Regulation

27th May 1829.

Regulation VIII of 1802 adjudge the prisoner,
"Moondoothundeel Poolyan Chatoo,"
to suffer death by being hanged at the usual time and place of execution.—

(Sent following letter No 165

Read letter dated the 8th December 1828 from the First Judge of the Court of Circuit in the Northern Division, with record of the trial in case No 3 Masulipatam Calendar 3rd Quarterly Sessions 1828.

(Here enter No 99 of 1828.)

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 Poydaree Adalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and acquitting the prisoner,
"Mahomed Casim,"
direct that he be set at liberty.—

Sent following Letter No 166

Send the second futwa delivered in case No 1 Masulipatam Calendar 3rd Quarterly Sessions 1828 by the Cazee ool Coozat and Mooftees of the Poydaree Adalut.

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit

27th May 1829.

Circuit, the futwa of the Provincial Law Officer and the futwas of the Cazee ool Coozat and Mooftees of the Poydaree Adalut, confirm the second futwa of the Cazee ool Coozat and Mooftees aforesaid, and convicting the prisoner
Muddoola Gungiah of wounding
under Clause third Section VII Regulation XV of 1803, adjudge the said prisoner,
"Muddoola Gungiah,"
to receive sixty lashes with a Cat of nine tails, 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 five years.—

(Sent following letter No 167.

Read the second futwa delivered in case No 19 Nellore Calendar 2nd Sessions 1828 by the Cazee ool Coozat and Mooftees of the Poydaree Adalut.

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 Poydaree Adalut, confirm the second futwa of the Cazee ool Coozat and Mooftees aforesaid,

and

27th May 1829.

and convicting the prisoner
"Chimbaty Poloogandoo,"
of Murder, do adjudge him, under the provisions of Section X Regulation VIII of 1802, to suffer death, by being hanged at the usual time and place of execution.—

(Sent following letter No 168

Read letter dated the 9th October 1828 from the Third Judge of the Provincial Court of Circuit in the Northern Division with record of the trial in case No 18 Nellore Calendar 2nd Sessions 1828.

(Hereunto No 60 of 1828.)

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 Cazeut and Mooftees of the Pundaree Adawlut are of opinion that the evidence is not sufficient to convict the prisoner

"Seroopaty Venkadoo,"

and do accordingly acquit him, notwithstanding the futwa of their Law Officers, 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 three hundred

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27th May 1829.

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.—

The Judges cannot make up their minds to the conviction of the prisoner in this Case, notwithstanding his confession before the Criminal Judge. That confession is not corroborated by a single independent circumstance tending to fix suspicion upon him, for the Court do not think the smallest credit is due to the Third and Fourth Witnesses.— Moreover the Judges consider the Third Judge to have erred in not calling for the Witnesses named by the Prisoner to prove an alibi. It is quite possible that they might have satisfactorily established it; and it is clear that if they had, the Prisoner's confession would have gone for nothing. Upon the whole the Court think it most safe to hold the Prisoner to security.—

Ordered that extract of the proceedings be furnished for the information of the Third Judge of the Provincial Court of Circuit in the Northern Division.—

(Sent following letter No 169.

Read

Read letter dated the 25th October 1828 from the First Judge of the Court of Circuit in the Centre Division, submitting the record of trial in case No 3 Chittoor Calendar 4th Quarterly Sessions 1828.

(Here enter No 367)

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 Cazat and Mooftees of the Foujdaree Adaulut, confirm the said futwa of the Cazee and Cazat and Mooftees aforesaid, and acquitting the prisoners, Sabsinnee pt Rungadoo, 5th Vencatachellum, and 6th Vencataramun } Chichlers direct that they be set at liberty.

(Sent following letter No 170)

The Court of Foujdaree Adaulut further direct that the First Judge do order the three other prisoners, viz.t.

2nd "Ameen Sahib,"
3rd "Chinna Cawder," and
4th "Pedda Cawder,"

to be released unconditionally, if they are still in Jail, and if they have given bail, to cancel the bail bonds.

2. According to the Tahsildar's own account the first Prisoner had been

27th May 1829

kept in confinement by him fourteen days before he made his pretended confession, of course therefore that confession is not entitled to the smallest credit. Than the circumstantial evidence against him is of the loosest kind, parts of it in fact are incredible, and the prisoner has supported his plea of alibi by better evidence than is usually produced on such occasions. Against the 5th and 6th Prisoners there is not the slightest proof except their pretended confessions before the Tahsildar, and the Court have not the least doubt that they were extorted or fabricated.

Ordered that extract of these proceedings be transmitted to the First Judge of the Provincial Court of Circuit in the Centre Division by Precept returnable without delay.

(Sent following Precept No 171)

Read letter dated the 18th November 1828 from the First Judge of the Court of Circuit in the Centre Division, with record of the trial in case No 4 Chittoor Calendar 4th Quarterly Sessions 1828.

(Here enter No 57 of 1829)

The First Second and Third Puisne Judges having maturely considered the proceedings

27th May 1829. 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,

"Ghoolam Mohummud,"

direct that he be set at liberty.—

The Court of Foujdaree Adalut consider the evidence addduced in this case altogether insufficient for the conviction of the prisoner — According to the Tahsildar's report the prisoner was taken into custody by himself on the night of the 6th and his pretended confession was not made till midday of the 8th — That confession therefore is entitled to no credit — and there is no other evidence to be depended upon — A man's dying words must always be received with great caution — No doubt there might have been other Ghoolam Mohummuds besides the prisoner in Calastry, and there is nothing to show how this particular Ghoolam Mohummud happened to be fixed upon as the one meant by the deceased — On this point the evidence is fatally defective — Neither have the Court evidence to show that

5 F. R.

27th May 1829. the deceased actually went to the prisoner's house on that evening — Besides, if the prisoner was the guilty man, it is impossible that his clothes should not exhibit marks of blood; but there is no evidence of this, although the Tahsildar in his Cazee represents that his clothes were bloody —

Ordered that extract of these proceedings be furnished to the First Judge of the Provincial Court of Circuit in the Centre Division for his information.

(Sent following letter No 172

Read letter dated the 23rd October 1828, from the First Judge of the Court of Circuit in the Centre Division, submitting record of the trial in case No 11 Chittoor Calendar 4th Quarterly Sessions 1828 —

(Here enter No 41 of 1829)

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 prisoners,

1st "Chellador" Talliar and

2nd "Vencatasamy" Husbandman

direct that they be set at liberty.—

(Sent following letter No 173.

Read the second futwa

delivered

27th May 1829.

delivered in case No 4 Salem Auxiliary Court Calendar 2nd Sessions 1828 by the Cazee ool Coozat and Mooftees of the Sudder Adalut.

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, convict the prisoner,

"Mahomed Khan"

of the crime of Robbery by open violence attended by severe wounding and under the second futwa of Ashoolut, do under the provisions of Clause second Section IV Regulation XV of 1803 and Clause third Section II Regulation I of 1825, adjudge the said prisoner,

"Mahomed Khan"

to receive one hundred and fifty lashes with a cat of nine tails, 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 term of his natural life.— Sent following letter No 174

Read letter, dated the 25th December 1828 from the Third Judge on Circuit in the Southern Division, with record of

27th May 1829.

of the trial in case No 11 Salem Auxiliary Court Calendar 2nd Sessions 1828.—

(Here enter No 731 of 1828)

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 acquit the prisoner,

"Nandamoopen,"

but considering him an unfit person to be at large, direct that he be detained in custody, until in the opinion of the Criminal Judge he may be released without danger to the community, or until trustworthy persons can be found to undertake such charge of him as may prevent his doing further mischief.—

(Sent following letter No 175.)

24 A. M. W.

F. H.

× 26.

At a Court of the Fouzdaree Udalut.

Present

Thursday, 28th May 1829.

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

Read letter, dated the 8th August 1828 from the Second Judge on Circuit in the Centre Division, with record of the trial in case No 17 Cuddalapah Calendar 2nd Sessions 1828.—

(Here enter No 473 of 1828)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them being of opinion that the proof against the prisoners,

1st "Banla Wobagundoo,"
and
2nd "Goodla Wobagundoo"

is sufficient to convict them of the crime of culpable homicide only, notwithstanding the future of their Law Officers, do convict the said Prisoners thereof accordingly, and adjudge them each to receive one hundred lashes with a cat-of-nine-tails and to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the

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Read also letter dated the 15th Instant from the Criminal Judge in the Zilla of Cuddalapa, explaining the mistake in reporting the death of a prisoner whose case has been referred to the Fouzdaree Udalut.
(Here enter No 285 of 1829)

28th May 1829.

the period of Sixe years — And convicting the prisoner,

5th "Singaregaadoo,"

of the crime of having instigated the homicide aforesaid, do under the sentence of Cohoobut declared in the said futwa, adjudge him to be imprisoned and kept to hard labour in irons on the public roads or other public works for and during the period of one year —

(Sent following letter No. 181

Read letter, dated the 11th December 1828, from the Second Judge on Circuit in the Centre Division with record of the trials in cases Nos 34 and 35 Cuddapah Calendar 2nd Sessions 1828.

(Hereunto No. 694 of 1828)

Mr Grant and Mr Oliver

Nos 34 & 35.

The First and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit in these two cases, the futwas of the Provincial Law Officer, and the futwas of the Cazee ool Coozat and Mooftees of the Sunjelaree Udalut confirm such part of the futwas of the Cazee ool Coozat and Mooftees aforesaid, as acquit the prisoners,

2nd "Tanegala Pampadoo,"
3rd "Vobelaogadoo," and
4th "Khajee Khan,"

but considering that strong suspicion, though

28th May 1829.

though not amounting to conviction, attaches to them, the said Judges direct that they be severally required to find two sureties in fifty Rupees each for their good behaviour and appearance when required within one year or in default thereof that they be each confined for one year in confinement.

The same Judges being of opinion that the proof against the prisoner,

1st "Conderedoo,"

is sufficient to convict him of the crime of Theft, do convict him thereof, and under the sentence of Cohoobut declared in the futwa of their Law Officers, do adjudge him to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of seven years.—

(Sent following letter No. 182.

Read letter, dated the 16th January last, from the Second Judge late on Circuit in the Centre Division with record of the trial in case No. 53 Bellary Calendar 2nd Sessions 1828.—

(Hereunto No. 37 of 1829)

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

evidence before them, are of opinion that the
proof against the prisoner,
1st "Sunna Errapah"
is sufficient to convict him of the crime of
Murder but considering that the punishment
to which under the sentence of Hissaïs
declared in the futwa of their Law Officers
he would on such conviction, be liable,
would in this instance be too severe, the
Judges under the authority vested in them
by Clause second Section VI Regulation I
of 1825, do adjudge him to be transported
to such place beyond Sea as the Governor
in Council shall appoint, there to be impris-
oned and kept to hard labor in irons on
the public roads or other public works
for and during the term of his natural life
The Judges concur with their Law
Officers in acquitting the prisoner,
2nd "Seenukka"
but considering that strong suspicion
though not amounting to conviction,
attaches to her, they direct that she be
required to find two sureties in two
hundred Rupees each for her good
behaviour and appearance when
required within two years or in default
thereof, that she be detained for two
years in confinement.

Vide following letter No 183
Read letter dated the 28th March
last

last, from the Third Judge on Circuit
in the Centre Division, with record
of the trial in case No 4 Cuddapah
Calendar 1st Sessions 1829
(Here enter No 203 of 1829)
The First, Second and Third
Puisne Judges having maturely considered
the proceedings held before the Judge on
Circuit, the futwa of the Provincial and
Officer and the futwa of the Cuzzee and
Coozat and Mooftees of the Tongaree Adawlut
confirm such part of the futwa of
the Cuzzee and Coozat and Mooftees
aforesaid as acquits the prisoner,
2nd "Moosalegadoo"
and direct that he be set at liberty.
And being of opinion that the proof
against the prisoner,
1st "Wahoolooguadoo"
is not sufficient to convict him, not-
withstanding the futwa of their Law
Officers, they acquit him also, and
direct that he be set at liberty.

The first Prisoner's confession
before the Criminal Judge is not corrobo-
rated by circumstantial evidence of
any sort. It is true indeed that an
attempt was made to shew that
enmity subsisted between the prisoner
and

28th May 1829.

and the deceased but the evidence to that point appears to the Court deserving of very little consideration — This pre-tended enmity is the cause assigned for suspicion first attaching to them, but it is observed that it was not brought forward till a month after the murder; and if it had rested on any foundation it is hardly possible to imagine that it would not have suggested itself in the first instance — It appears then that the prisoners were living quietly and unsuspected in their village for a month, and at last, though they were not in the village when the Duffadar, the 3rd Witness, arrived there, there is not the slightest ground for believing that they had absconded — On the contrary, it was well known where they were — The reason assigned by the Criminal Judge for not summoning the Witnesses named by the prisoners, is also a very unsatis-factory one — Those witnesses might have proved that the prisoners slept all night at their usual places of sleeping, which would have completely nullified the effect of their criminination of each other in the village — The Court have hardly a doubt that the village confessions of the prisoners were obtained from them

28th May 1829.

by unwarrantable means — The discretion allowed to Criminal Judges by Regu-lation II of 1822 ought obviously to be exercised with the greatest caution —

Ordered that a extract of these proceedings be transmitted to the Third Judge on Circuit in the Centre Division to be by him com-municated for the information of the Criminal Judge of Cuddapah —

(Sent for Covering letter No 184.)

Read letter dated the 4th October 1828 from the Second Judge on Circuit in the Centre Division, with record of the trial in case No 9 Cuddapah Calendar 2d Sessions 1828 —

(Execution No 592 of 1828.)

The objections taken in the above Futwa to the evidence of the second and third Witnesses, being founded on scrupulous distinctions repugnant to the principles of equal justice, the Court of Foujdaree Adawlut do hereby require their Law Officers to declare by a second Futwa "what would be the Futwa "if the evidence of the said second and "third Witnesses had not been subject "to the objections stated."—

Ordered that a extract of these proceedings be translated and delivered to the Cazee ool Cozat and Mooftees of the

7th " 1822

29th " 1822

25th May 1829. the Foujdaree Udalut.

Read.

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Vol.

Vol.

At a Court of the Foujdaree Udalut

Present,

Monday, 1st June 1829

F. A. Grant Esquire, --
James Cochrane Esquire, --
William Oliver Esquire, -
} Judges

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Vol.

The Judges of the Foujdaree Udawlut having observed, in various recent references made by the Judges on Circuit, that their several orders of the 29th October 1807- 21st February 1822- 20th June 1822- 15th September 1823- and 27th April 1825, respecting insane prisoners, have left the course of proceeding to be adopted in such cases doubtful and obscure, have resolved to explain the same by the following order, in which the substance of those formerly issued is comprised.-

2 It will continue to be the duty of the Magistracy to send to the Criminal Judge, or joint Criminal Judge, all insane persons, from whose insanity they may have reason to apprehend fatal effects, unless their friends shall enter into engagements to take such care of them as to prevent the possibility of their doing any mischief.- Where there may be no European medical officer attached to a joint Criminal Court, the Joint Criminal Judge shall forward such persons to the Criminal Judge.-

3 Such persons shall be confined in the hospital attached to the Jail

1st June 1829.

Jail, under care of the European Medical Officer - On his reports, the Criminal Judge, or Joint Criminal Judge, may restore them to the charge of their friends, without applying for special permission from the Higher Courts; but in cases considered by the Medical Officer to come under the description of confirmed lunacy, where the liberation of the party would be dangerous to the community, such persons are to be forwarded by the Criminal Judge, or Joint Criminal Judge, under proper custody, to the Superintendent of Police at Madras, in order that they may be lodged in the Lunatick hospital. In all such cases, the lunatics are to be accompanied by the certificate of the European Medical officer on their cases.

4 A report is to be made by the Criminal Judge, or Joint Criminal Judge to the Judge on Circuit, of all such persons confined in the Hospital of the Jail for a period exceeding six months; and it shall be competent to that officer to issue such orders respecting them as he may deem necessary, reporting, in a special manner, for the orders of the Lieutenant Colonel, the cases of all such persons as may have been confined for 12 months, or upwards, and not deemed fit subjects for the Lunatick hospital at Madras.

5 Persons charged with having committed any criminal act in a state of insanity, such as, supposing them sane, would render them on conviction liable to

1st June 1829.

to punishment, shall be brought, in the usual manner, before the Officer who has cognizance of the crime of which they are accused. - In all such cases brought before the Criminal Court, the European Medical officer attached to the Jail shall have such prisoners placed under his immediate charge, in the Jail Hospital; - and in cases cognizable by the Court of Circuit, the Criminal Court shall take evidence not only as to the act charged against the prisoner, but as to the state of his mind when the same was committed. -

6 When such persons are brought before the Officer who has cognizance of the Crime with which they are charged, he shall investigate the state of their mind when brought to the bar; - and if they be then in an unsound state of sanity, he shall place them on their trial; when the state of their mind at the time of the act charged against them will form a natural object of enquiry, together with all the circumstances that attended the Commission of the crime with which they stand charged. - If the mental derangement of the prisoner at the time of the crime charged against him is established, he will of course be acquitted and the same recorded in the usual manner.

7 When it may appear to the officer who has cognizance of the crime with which such persons stand charged, that they are in a state of insanity when brought to the bar, he shall not proceed with their trial; but shall enter into an investigation, with the view of ascertaining, whether their insanity is absolute, - and whether the crime charged was committed by them under such absolute

deprivation

of June 1829. deprivation of reason.- If both of these points are established in the affirmative, tho' want of reason excuses from guilt, and consequently from punishment, yet, with a view to the public safety, he shall direct the prisoner to be retained in confinement, subject to the orders of the Foujdaree Adalut, to whom he shall report all the circumstances of the case, with the opinion of the European Medical Officer attached to the Jail Hospital, as to whether the prisoner is a fit object for confinement in the Lunatick Hospital at Madras.- If, on the other hand, it appears that the prisoner's insanity is only partial, or that he has lucid intervals, he shall be remanded to custody until he is in a fit state to be placed on his trial - provided that, after such remandment, no such person shall be continued in confinement for a period exceeding 12 Months, without a special report of all the circumstances of his case being made to the Court of Foujdaree Adawlut, by the officer in whose custody he may be, at the expiration of that period.-

3. Ordered that extract from these proceedings be forwarded to the 4 Provincial Courts by precept requiring them to issue the same for the information and guidance of the Judges on Circuit, the Criminal Courts and the Magistrates in their respective Divisions.-

Exhd. /Sent following precepts Nos 185./

/Read letter dated the 25th March last from the Third Judge late on Circuit in the Northern Division,- with record of trial in Case No 9 Chicacole Calendar 2d Sessions 1828.- /Here enter No 196/

The

7/6.

7th June 1829. 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-Cozat and Mooftee of the Foujdaree Adalut, confirm the futwa of the Cazee-ool-Cozat and Mooftees aforesaid, and acquit the prisoner,

"Doorlabacavoo,

but considering that strong suspicion though not amounting to conviction, attaches to him, they direct that he be required to find two sureties in three 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.-

There are strong grounds to presume that the girl Booody has been made away with by the prisoner and his brother; but the Judges do not think the presumption is sufficiently strong to warrant a substantive punishment. The 5th Witness has varied so much in his several examinations, that little reliance can be placed upon his testimony; and it seems to the Judges that sufficient pains were not taken to ascertain with certainty whether the articles left in his house, by the prisoner or by him and his brother, were the property of Booody. If the Judges could feel confident that those articles really belonged to her, and that the prisoner had any hand in placing them in the 5th Witness' house, they would have no hesitation in following the Bengal precedents

1st June, 1829.

precedents in Cases of this sort; but they do not think they have enough in this case to warrant what most likely would be a sentence of imprisonment for life.

Ordered that extract of these proceedings be furnished for the information of the Third Judge late on Circuit in the Northern Division.

Sent following letter No 186

Read letter dated 19th Instant, from the First Judge on Circuit in the Western Division, reporting the completion of the Jail Delivery at the Gillah of Bonares.

Item entered No 308

F. H.

At a Court of the Supreme Adalut.

Present,

Monday 8th June 1829

T. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
W. Oliver Esqre 3rd Puisne Judge

Read the second finding and sentence in case No 9 Cuddapah Calendar 2nd Sessions 1828 by the Cazee ul Cozat and Mooftees of the Supreme Adalut.

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the finding of the provincial Court and the opinions of the Cazee ul Cozat and Mooftees of the Supreme Adalut, confirm the second finding of the Cazee ul Cozat and Mooftees aforesaid so far as regards the Prisoner,

Govt. Selamon Khan

and convicting him of Robbery, under Clause Third Section IV Regulation XII of 1803 and judge him to be imprisoned and kept to hard Labor on the public roads or other public works for and during the period of fourteen years. And having of opinion on a deliberate consideration of the circumstances of the case and evidence before them that the evidence against the second prisoner is insufficient to

to

8th June 1829. 1

to convict him of Cooking in the said crime
&c. under Clause First Section II Regu-
lation I of 1816, convict him thereof, and
under Clause Fifth Section IV Regulation
XX of 1803, adjudge the said prisoner
2nd "Makoya Condegadoo"
to be imprisoned and kept to hard labour
on the public roads or other public
works for and during the period of five
years.-

(Put following letter No 192
Read letter, dated the 23d February
last, from the Second Judge to Circuit in
the Centre Division, with record
of the trial in case No 5 Bellary Calendar
2nd Sessions 1828.-

(Here enter No 127 of 1829)

The First, Second and Third Circuit
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 al
Coozat and Mooftees of the Sudder Adawlut,
confirm such part of the opinion of the
Cazee al Coozat and Mooftees aforesaid
as acquits the prisoners,
5th "Chellumgadoo,"
6th "Carree Timmadoo,"
7th "Yerra Timmadoo" and
8th "Gooloo Nagadoo,"
and direct that they be set at liberty-

And

8th June 1829. And being of opinion that there is not sufficient evidence against the prisoners
1st "Boonooraiah,"
2nd "Koolegah,"
3rd "Doodah," and
4th "Hunnegadoo"
do acquit them also, notwithstanding the opinion of their Law Officers, and direct that they be likewise set at liberty.-

There is strong evidence to shew that the first Prisoner was severely ill treated when he was first taken into custody, and the Court of Sudder Adawlut have little doubt that the three other confessing prisoners were ill treated in the same way- It is impossible to say how far treatment of this kind may have influenced their confessions before the Magistrate; and those confessions are not corroborated by any circumstantial evidence, for the Court consider the evidence of the eighth Witness as absolutely worthless- The first, second and third Witnesses, who swear that they recognized the eighth, sixth, seventh and eighth Prisoners at the robbery, are entitled to as little credit for their evidence as is totally inconsistent with

8th June 1829

with the fact that even the Caste of Pathan was not known. On the other hand it appears to the Court of Sudder Adawlut that nothing can be more strong than the evidence on behalf of the Prisoners. The property before the Court of Circuit for which the prosecutor seems to, is most undoubtedly theirs, and the Circuit Judge does not appear to have given due weight to the testimonies for the unhappy prisoners.

In his letter accompanying the trial the 2nd Judge has recommended that security be taken from the fifth and eighth Prisoners for ten years, and from the sixth and seventh Prisoners for five years. The Court of Sudder Adawlut are not aware of any part of Regulation VI of 1827 authorising the requisition of security for such periods. Section X in clause second contemplates the "indefinite confinement" of a prisoner in default of security, but its third clause declares that to such cases clause second Section IX shall be applicable, under it the Circuit Judge fixes only the amount of the security; and is to direct that, in default of giving it within three years, the prisoner shall be brought up before the Circuit Judge anew, to be disposed of as therein provided.

Ordered that extract of

these

8th June 1829.

proceedings be furnished for the information of the second Judge of the Circuit in the Centre Division.

(Sent following letter No 193

Read letter dated the 22nd April last from the Third Judge late on Circuit in the Northern Division with record of the trial in case No 33 Chittagong Calendar 2nd Sessions 1828.

(Recd entry No 257 of 1829)

The First, Second and Third 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 Cozat and Mooftees of the Sudder Adawlut confirm the said Futwas of the Cazee and Cozat and Mooftees aforesaid, and acquitting the Prisoners,

1st "Ruttee Hadoo," and

2nd "Muddeeya Doo,"

direct that they be set at liberty.

(Sent following letter No 194.

Read letter dated the 27th April last, from the Third Judge late on Circuit in the Northern Division with record of the trial in case No 3 Chittagong 2nd Supplemental Calendar 2nd Sessions 1828.

(Recd entry No 255 of 1829)

The

7th June 1829

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the finding of the Provincial Law Officer and the finding of the Cazee and Cazat and Mosftees of the Tuybaree Choultry, are of opinion that there is not sufficient evidence against the prisoner,

Vadooroo Sunnyasy,

and notwithstanding the finding of their Law Officers acquit him of the crime laid to his charge, but considering that strong suspicion, though not amounting to conviction, attaches to him, they direct that he be required to find two Sureties in one hundred Rupees each for his good behaviour and appearance when required within two years, or in default thereof that he be detained for two years in confinement.—

(Sent following letter No 195

Read letter dated the 24th December 1828 from the Third Judge on Circuit in the Southern Division, with record of the trial in case No 7 Salem Auxiliary Court Calendar 2nd Sessions 1828.—

(Herewith No 730 of 1828)

The First, Second and Third Puisne Judges on a deliberate consideration

7th June 1829

of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners is insufficient to convict them of the crime of violently assaulting and wounding &c. under the authority with which they are vested by Clause First Section II Regulation I of 1818, convict them thereof, and adjudge the prisoners,

1st "Armoogum," and
2nd "Vandu,"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of two years, and the prisoners,

3rd "Andy,"
4th "Vuttaram Chitty,"
5th "Nunjappah Chitty"
6th "Raman," and
7th Pallecotatan,"

to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of one year.—

(Sent following letter No 196.

Read letter dated the 29th ultimo from the Provincial Court of Circuit in the Centre Division submitting the Reports prescribed by Section XXXV Regulation X of 1810 for the month of March received from the several Criminal and Joint Criminal

8th June 1829 Criminal Judges in the Division, together with an extract from their proceedings thereon.—

(Vide enter No 318)

Cuddapah The sentence passed by the Criminal Judge on the 2nd and 3rd prisoners in case No 12 of the Report No 5 is illegal and should accordingly be amended. A Criminal Judge being no where in the Regulations authorized to demand security for a period of three years. Should the conduct of the prisoners without security at the limited period of twelve months appear to the Criminal Judge to be unsafe, it will be his duty, under Clause third Section VIII. Regulation VI of 1827, "to record his opinion to that effect with an order specifying the amount of security which should on his "judgment be required from the prisoner "as well as the number of sureties and the "period for which the sureties should be "responsible for the prisoners good behaviour."

The Judges desire that the Criminal Judges in this Division be instructed to omit in future the column in the Report No 5 headed "Before what Court of Circuit to be tried" this information being considered no longer necessary.

Ordered that a extract of the proceedings

7th June 1829 proceedings be forwarded to the Provincial Court of Circuit in the Centre Division desiring them to make the necessary communications. Precept returnable within two weeks from the date of the receipt thereof.—

(Vide following Precept No 197)

Read letter dated the 30th Ultimo from the Third Judge on Circuit in the Centre Division, with copies of the Calendars laid before him by the Criminal Judge in the Zillah of Chingleput at the First Sessions of 1829.

(Vide enter No 317)

In a note subjoined to Case No 1 on the first Calendar, it is stated that the abstract of the deposition of the Witness Cundan had not been entered, the Criminal Judge deeming his evidence to be inadmissible in consequence of his having been formerly convicted of receiving stolen property and sentenced to four years imprisonment with hard labour. And in case No 3 on the Supplemental Calendar a similar note shews that the Witness Comarapa Chetty sent up by the Head of Police, was not examined by the Criminal Judge because he had been convicted of theft before the Court of Circuit First Sessions 1824

and

8th June 1829

5th June 1829

and sentenced to three years hard labor in irons.—

Acceding to the spirit of the laws of England, as explained in a late enactment of the British Legislature (the act for improving the administration of Criminal Justice in the East Indies) no person convicted of felony or misdemeanor, except perjury or subornation of Perjury, is an incompetent witness, provided he has undergone the punishment awarded for his offence. The Judges are of opinion that the same law of evidence should apply in the Criminal tribunals under them, and direct that this be made to the Criminal Judge by the Judge on Circuit.—

Ordered that a extract of these proceedings be transmitted to the Third Judge on Circuit in the Centre Division to be by him communicated for the information and guidance of the Criminal Judge in the Zillah of Chingleput.—

(Subjoin Covering Letter No 193)

Read return, dated the 9th Ultimo from the Judges of the Provincial Court of Circuit in the Western Division to Precept dated 18th Ultimo directing that Court to communicate to the Criminal and Joint Criminal Judges of Canara and Malabar the

8th June 1829

the remarks of the Court of Sudder Adawlut upon their criminal Reports for March last.—

(Here enter No 322)

Read return dated the 20th Ultimo from the Provincial Court of Circuit in the Centre Division to precept dated 21st Ultimo directing that Court to circulate to the several Criminal Courts this Court's decision on a question proposed by the Criminal Judge of Malabar "whether it is imperative on a Criminal Judge to grant to the accused the privilege "of a defence and witnesses."—

(Here enter No 323)

Read return dated the 1st Instant from the Provincial Court of Circuit in the Centre Division, to precept dated 27th Ultimo directing the circulation of their orders concerning the propriety of sentencing a fresh on demanding security from a prisoner already convicted and undergoing his sentence, for a second crime committed before that sentence was passed—

(Here enter No 324)

Read return dated the 1st Instant, from the second Judge late on Circuit in the Centre Division, to precept dated 27th May awaiting for the proceedings held

8th June 1829.

Ld by the 2nd Judge in case No 19 of the Chingleput Calendar 2nd Sessions of 1828 –
(Here enter No 329)

Read return dated the 30th Ultimo from the First Judge of the Provincial Court of Circuit in the Centre Division, to precept dated 25th Ultimo directing that the 4th prisoner in case No 5 of the Calendar 4th Quarter Sessions of 1828 be released unconditionally –
(Here enter No 332)

Read return dated the 1st Instant, from the Third Judge of the Provincial Court of Circuit in the Northern Division, to precept dated 27th ultimo directing the 3rd Judge to issue a fresh warrant to the Criminal Judge of Chicacole to release the 3rd 4th and 5th prisoners and also a warrant to set at liberty the 2nd prisoner in Case No 19 of the 1st Calendar for the 2nd Sessions of 1828 –
(Here enter No 333)

Read return dated the 1st Instant, from the Third Judge late on Circuit in the Northern Division, to precept dated 27th ultimo calling for the record in case No 21 Chicacole Calendar – the 3rd Judge presumes that the record required is No 2 of the 1st Supplemental Calendar –
(Here enter No 334)

Read Letter dated the 1st April last from the Provl Court in the Centre Division with a Petition presented by Lee: XXXV Reg: X of 1816 praying the 31st Decr last –
(Here enter No 210)

29

F. H.

At a Court of the Foujdaree Udalut
Present,

Thursday, 11th June, 1829.

F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2nd Puisne Judge
W. Oliver Esqre 3rd Puisne Judge.

Read Petition presented by Mootoocoomarapah Chitty of Narsingapoor in the Zillah of Chingleput –
(Here enter F. H. Misc Petn No 2 of 1829)

This is the same person whose Petition was rejected under date the 7th Ultimo as "frivolous and vexatious," and notwithstanding it was expressly mentioned in that order that the proceedings of the Magistrate in the case, the subject of complaint, had been sent for and considered, the Petitioner still prays (without making the least allusion to the said order) that those proceedings may be examined and that the Court will direct the Criminal Judge to investigate the case and cause the restoration to him (Petitioner) of the sum of 87 Rupees the alleged value of the property of which he pretends his house was robbed –

It

A document to be noticed as a specimen of the handwriting with which the statements of this man are made, that in his former petition he averred that the value of the property of which he said he had been robbed and of which he prayed the Court would order restoration to be made, was only 174 Rupees—

The petitioner is referred to the order already passed, and informed that this Court will take no further notice of this complaint—

Read return dated the 1st Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 21st ultimo directing that Court to circulate the extract from this Court's proceedings on the question whether it is imperative on the Criminal Judge to grant to the accused the privilege of a defence and witnesses—

(Here enter No 335)

Read return dated the 3rd Instant from the Judges of the Provincial Court of Circuit in the Northern Division, to precept dated 27th ultimo directing them to circulate the orders of the Bengal Court regarding the propriety of

sentencing a fresh or demanding security from a person already convicted and undergoing his sentence for a second crime committed before that sentence was passed—

(Here enter No 339)

Read return dated the 3rd Instant from the First Judge of the Provincial Court of Circuit in the Centre Division, to precept dated 27th ultimo directing the unconditional release of the 2nd & 3rd and 4th prisoners in case No 3 for the Calendar of the 4th Quarterly Sessions 1828.

(Here enter No 341)

Read return dated the 3rd Instant from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated the 27th ultimo desiring them to circulate the orders of the Bengal Court regarding the propriety of sentencing a fresh or demanding security from a person already convicted and undergoing his sentence for a second crime committed before that sentence was passed—

(Here enter No 342)

Read letter dated the 25th ultimo from the Third Judge at Cuttack in the Southern Division, forwarding a letter from the Joint Criminal Judge at

11th June 1829. Ditto Salem reporting the death of the 4th prisoner Vuttarinmmin Chitty on Calendar No 7 of the 2nd Sessions of 1828. now under reference.—

(Here enter No 316) S.

F. H.

At a Court of the Puysisee Adalut

Present,

Monday, 15th June 1829.— F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

Read letter dated the 29th ultimo from the Provincial Court of Circuit in the Western Division — submitting the Reports prescribed by Section XXXV Regulation X of 1816 from the several Criminal and Joint Criminal Judges in the Division for the month of April, together with copies of the proceedings thereon.—

(Here enter No 317)

Ordered— That the prisoners in case No 26 of the Supplemental Report charged with Larceny from the house of property to the value of 3¾ Rupees are sentenced by the Joint Criminal Judge to 6 Months imprisonment with hard labor in irons. This requires explanation, as with reference to the powers of the Puysisee Adalut dated 13th August 1823 the Criminal Judges were directed in all cases of theft punished by them under the provisions of Clause Fourth Section III Regulation VII of 1822 with imprisonment exceeding six

15th June 1829.

Six Months, invariably to specify in the Reports the particular circumstances of aggravation which in any case brought the case within those provisions should none of the circumstances specified in the Clause Section and Regulation above quoted have existed, the Judges direct that the term of imprisonment be limited to six months as provided in Section VII Regulation X of 1818.

Malabar & Tellicherry

2. The Judges desire that the Criminal and Joint Criminal Judges of Malabar be directed in future to enter in their Reports the grounds of the release of the prisoners viz. whether the charges appeared to be wholly groundless or merely failed of proof; and if so in what quarter the failure occurred.

Canara

3. The Provincial Court are directed to call upon the Criminal Judge of Canara to complete the Sentences passed by him on the prisoners in cases Nos 27 32 & 31 of the Report No 5, by recording the period for which the prisoners may be detained in confinement in default of their finding the required security

15th June 1829. 4.

Canara

The Judges having observed that the Joint Criminal Judge of Canara has, in all cases in which he deemed it expedient to demand security, omitted to specify the period for which the sureties will be held responsible for the prisoners good behaviour, - desire that this Officer's attention be called to the Circular orders of this Court dated 31st October 1823 which declare 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 security shall be the same.

5 The Judges desire that the Criminal Judges in this Division be instructed to omit in future the Column in the Reports No 5 headed "Before what Court of Circuit to be tried" this information being considered no longer necessary.

Ordered that extract of these proceedings be forwarded to the Provincial Court of Circuit in the Western

15th June 1829

Western Division declining them to make the necessary communication to the Officers hereinmentioned - Precepts returnable within two weeks from the date of the receipt thereof -

(Sent following Precepts Nos 203)

No return having been received from the 3d Judge on Circuit in the Centre Division to the precept dated 9th instimo, calling upon him to report upon a petition presented in behalf of Tumbally Burjin Khumpa a convict in the Jail at Cuddapah -

The Court direct that the 3d Judge on Circuit in the Centre Division be by precept commanded to explain the cause why he has not obeyed the mandate of the precept dated 9th instimo - Return to this precept to be made within two days from and after its receipt -

(Sent following Precept No 205)

Read again letter dated 19th March last from the Third Judge on Circuit in the Centre Division submitting Calendar of the Auxiliary Court in the Zillah of Cuddapah 1st Sessions 1829 -

(Centre entered No 173 of 1829)

The

15th June 1829

The records of the proceedings held by the 3d Judge in cases Nos 1 and 3 of the above Calendar and Nos 2 and 3 of the Postponed Calendar, which according to the remark entered therein are to be referred to the Foujdaree Adawlut not having been received -

The Court direct that the Third Judge on Circuit in the Centre Division be by precept commanded to send up the records of the proceedings held by him in the cases above mentioned within two days from the date of the receipt of this precept -

(Sent following precept No 205)

Read again letter dated 23d March last from the Third Judge on Circuit in the Centre Division submitting Bellary Calendar 1st Sessions 1829

(Centre entered No 191 of 1829)

The records of the proceedings held by the Third Judge in cases Nos 3, 9, 12, 13, 14 and 15 of the above Calendar, which according to the remarks entered therein are to be referred to the Foujdaree Adawlut not having been received -

The Court direct that the Third Judge on Circuit in the Centre Division be by precept commanded to send up the records of the proceedings held by him in the cases above mentioned within

15th June 1829. within thirty days from the date of the receipt of this precept.

(Sent following Precept № 207)

Read again letter dated 15th April last from the 1st Judge in Circuit in the Western Division submitting Malabar Calendar 1st Sessions 1829.

(Here enter № 219 of 1829.)

The records of the proceedings held by the First Judge in Cases №s 18. 20 and 27 of the above Calendar, and №2 of the Additional Calendar which according to the remarks entered thereon are to be referred to the Bujdarree (what not having been received.

The Court direct that the First Judge on Circuit in the Western Division be by precept commanded to send up the records of the proceedings held by him in the cases above mentioned within fifteen days from the date of the receipt of this precept.

(Sent following Precept № 208)

Read letter dated 15th April last from the First Judge on Circuit in the Western Division submitting Canara Calendar 1st Sessions 1829.

(Here enter № 220 of 1829.)

The records of the proceedings

15th June 1829. held by the First Judge in cases №s of the above Calendar, which according to the remarks entered thereon is to be referred to the Bujdarree (what not having been received.

The Court direct that the First Judge on Circuit in the Western Division be by precept commanded to send up the records of the proceedings held by him in the cases above mentioned within ten days from the date of the receipt of this precept.

(Sent following Precept № 209)

At a Court of the Legislative Council

Present

Thursday, 15th June 1829 — The Honble. D. A. Arnaud, Esqre. 1st Puisne Judge
The Honble. James Cockburn, Esqre. 2nd Puisne Judge
The Honble. W. Oliver, Esqre. 3rd Puisne Judge

Read letter dated the 5th March last from the Third Judge taken on Circuit in the Northern Division, with record of the trials in case No 12 Rogahmmy Calender 2nd Sessions 1828.

(Here enter No 149)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the opinion of the Criminal Law Officer and the opinion of the Deputy Fiscal and Members of the Burgher Council, confirm the said opinions of the Criminal Court and Magistrates aforesaid, and adjudging the prisoners

1st Modanelly Ateekamale,
2nd " Modanelly Cummarooo
3rd " Galoony Pustamale "
4th " Beadoo Mullea "
5th " Tony Mudiyanse and
6th " Beadoo Sooria Lingum "

Must suffer the Death of Hanging

(Enter following letter No 214)

Read letter dated the 9th March last from the Second Judge taken on Circuit in

on the Centre Division, with record
of the trial in case No 26. Chungleput
Calendar 2nd Session 1828.

(Prisoner in No 84 of 1829)

The First Second and Third
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 Cozat and Mooftees of the Pungaree
Court, are of opinion that the evidence
is not sufficient to convict the prisoner
of the Murder laid to his charge and
acquitting him thereof, direct that
he be set at liberty.

Sent following letter No 215

Read letter, dated the 27th ultimo
from the Third Judge late on Circuit
in the Northern Division, with the record
of the trial in case No 2 Chicacole 1st
Supplemental Calendar 2nd Sessions 1828.

(Prisoner in No 81 of 1829)

The First, Second and Third
Puisne Judges having maturely consi-
dered the proceedings held before the
Judge on Circuit, the Opinion of the
Provincial Law Officer and the
Opinion of the Cazee ool Cozat

and

and Mooftees of the Pungaree Court
are of opinion that there is not
sufficient evidence for the conviction
of the prisoners
1st Varadarazulu
and
2nd Sunnyasi Sokadoo,
notwithstanding the Opinion of the
Cazee ool Cozat and Mooftees aforesaid,
do accordingly acquit them and direct
that they be set at liberty.

Sent following letter No 216

Read letter, dated the 3rd Instant
from the Third Judge on Circuit in the
Centre Division, forwarding the proceed-
ings in case No 5 of the Chingleput Calendar
1st Session of 1829.

(Prisoner in No 79 of 1829)

The First, Second and Third
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
Cozat and Mooftees of the Pungaree Court
are of opinion that the said Opinion of
the Cazee ool Cozat and Mooftees aforesaid,
the Cazee ool Cozat and Mooftees aforesaid,
and acquitting the prisoner,
"Byadoo,"
direct that he be set at liberty.

The Court of Pungaree do also direct

18th June 1829

direct that it be intimated to the Third Judge, and thro' him to the Criminal Judge by whom this prisoner was committed, that a man cannot commit a theft on his own property, unless it is done for the purpose of charging another with it.

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

(Sent following letter No 217.

Read letter dated the 11th March last, from the Third Judge late on Circuit in the Northern Division, inclosing case No 2 Rajahmundry Supplemented Calendar 2nd Sessions 1828.

(Execution No 162 of 1829)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner

"Bundah Thakoor"

is sufficient to convict him of the crime of aiding and abetting in Robbery by open violence attended with wounding, &c, under the authority in the which they

F 11

18th June 1829

are vested by Clause First Section II Regulation I of 1818, convict him thereof, and sentence him to receive one hundred lashes with a cat-of-nine tails, 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 term of his natural life, as prescribed by Clause second Section IV Regulation XV of 1825 and Clause fourth Section II Regulation I of 1825.

The Court concur in the Third Judge's view of this case, and do not consider the variations in the evidence, pointed out in the futwa, to be such as to discredit the witnesses.

Ordered that an extract of these proceedings be sent to the Third Judge late on Circuit in the Northern Division for his information.

(Sent following letter No 218

Read letter dated the 27th November 1828 from the First Judge of the Provincial Court of Circuit on the Western Divis-

18th June 1829.

Division with record of the trial in case
№2 Masulipatam Calendar 3rd Quarterly
Sessions 1828.—

(Here enter № 667 of 1828.)

The First, Second and Third Puisne
Judges having maturely considered the pro-
=ceedings 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 futwa
of the Cazee-ool-Coozat and Mooftees aforesaid,
and convicting the prisoners,

2nd "Bada Shaikaroy,"

and

3rd "Bada Sahib,"

of the crime of having aided in murder,
&c. under the sentence of Ta'zeer against
the 2nd Prisoner and the sentence of Tazeer
against the 3rd Prisoner, adjudge the said
prisoners to receive one hundred lashes
each with a Cat of nine tails and to be impri-
=soned and kept to hard labor in irons on
the public roads or other public works
for and during the term of three years.—

Sent following letter № 219

Read letter dated the 23rd April
last from the Second Judge late on
Circuit in the Centre Division, with record
of the trial in case №20 Chingleput

Calendar

18th June, 1829.

Calendar 2nd Sessions 1828.—

(Here enter № 249.)

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
Adalut, confirm the said futwa of the
Cazee ool Coozat and Mooftees aforesaid
and acquitting the prisoners,

1st "Lympenmal Sumabaren,"

and

2nd "Mootoo Veeren,"

direct that they be set at liberty.—

Both prosecutors in their
argee to the District Police Officer, dated
19 days after the robbery, expressly stated
that they did not know who the robbers
were; of course therefore no credit
whatever can be given to them, or
to the 5th and 7th Witnesses, when they
swear that they recognised the prisoners
at the robbery. Than not a single
article of the plundered property was
found upon the prisoners, and as to
their pretended confessions, they
are totally uncorroborated. There is

is too much reason to believe that the prisoners were ill-treated by the Police.—

2. On these grounds (principally) the Court relaise not only to release the 1st and 2nd prisoners, whose trial has been referred, but also to direct that the sureties for the 3rd Prisoner which were required by the 2nd Judge be discharged.—

3. The Court further direct that the Second Judge be apprized that even if he had taken a second further, the reference of the trial would have been necessary under Section VIII Regulation I of 1825.—

Ordered that extract of these proceedings be furnished for the information and guidance of the Second Judge of Circuit in the Central Division.—

(Sent following letter No 220

Read letter dated the 25th September 1828 from the Third Judge on Circuit in the Southern Division, transmitting case No 2 Cauhacoumm Calendar 2nd Sessions 1828.—

(Reference No 573 of 1828.)

The

F. H.
18th June, 1829.
Mr Grant
and
Mr Cochrane.

The First and Second Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the fiatwa of the Provincial Law Officers and the fiatwa of the Cazeecool Cozat and Mooftees of the Foujdaree Adawlut, confirm the said fiatwa of the Cazeecool Cozat and Mooftees aforesaid, and acquitting the prisoners,

1st "Villum"
2nd "Pareamoottoocantan,"
3rd "Mathooneeramalay,"
4th "Vadaneeramalay,"
5th "Parattien,"
6th "Veerum," and
7th "Sungum";

direct that they be set at liberty.—

(Sent following letter No 221

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F. M.

At a Court of the Fojdaree Adalut,
Present,

Tuesday 23d June 1829 } F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges

Read letter dated the 6th Instant, from the Second Judge of the Provincial Court of Circuit in the Centre Division, with a copy of the Calendar delivered by the Criminal Judge of Chittoor at the Second Quarterly Sessions of 1829.-

Here enter No 345 of 1829

1. In his remarks on Case No 2 the Second Judge has observed: "This is "clearly a case of Revenue default: the Crime "is incorrectly stated in the Calendar"; again, "no Affault was established, nor "imprisonment of the prosecutor proved"- To the Judges of the Fojdaree Adalut however, this appears to be clearly a Criminal Case- According to the admission of the prisoners, and the evidence of the Witnesses, the prosecutor was seized and bound- The breaking into his house too has very much the appearance of a Robbery.-

2. On Case No 4 the Second Judge remarks: "This is a novel case: the pri= "soners have been sentenced by the Cri= "minal Judge to two years imprisonment "for Burglary committed on the night on "which they committed the offence for which "they were tried by the Court of Circuit"- when a prisoner is charged with two distinct offences, one punishable by the Criminal

Criminal Judge, the other by the Court of Circuit only, it has been usual to suspend the punishment for the minor offence, until the greater one is tried, punishment for which would include that for the minor offence also - If the Criminal Judge had followed this proceeding according to the usual practice, no difficulty could have occurred - That Officer's sentence must now be considered as having merged in the heavier punishment adjudged by the Court of Quarterly Sessions.-

3. In Case No 8, the second Judge after explaining the grounds of the acquittal of the prisoners, states his opinion that the case should not have been committed, "but that the Criminal Judge should have bound over both parties to keep the peace, in heavy securities". It however does not appear that they are even now bound over; and a Petition being before this Court, complaining of the prisoners not having been punished, the Court desire that the second Judge will order the parties to be bound over accordingly.-

4. In Case No 11, which was a simple burglary, the 3d Prisoner being only a receiver, ought not to have been sentenced to the same punishment as the burglars, unless he was a notorious offender Vide as provided in clause third Section IV Regulation VII of 1827.-

5 Ordered that extract of these proceedings be transmitted to the Second Judge of the Provincial Court of Circuit in the Centre Division for his information and

and guidance, and that he be directed to furnish a copy of Para 2 for the information of the Criminal Judge of Chittoor.-

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

6 /Sent following precept No 226/

Read again letter dated 17th March last from the Second Judge of the Provincial Court of Circuit in the Western Division, with the English Record of Case No 11 Malabar Auxiliary Court Calendar 4th Quarterly Sessions of 1828.- called for in this Court's letter of the 15th February.- /Here enter No 181 of 1829/

1. After a full consideration of the proceedings in this case, the Court of Sudder Adawlut are inclined to think that appearances are very much against the prisoner, and that he escaped conviction in consequence of the forwardness of the witnesses - The order of the presiding Judge with respect to him, will therefore not be disturbed - It is to be regretted however, that the Prisoner was misused, as the Court are afraid he was, by what fell from the second Judge, to dispense with the examination of his remaining witnesses.-

With respect to the trial 2. for perjury, which arose out of this, the Court entirely differ from the second Judge - To warrant a commitment for perjury under the provisions of Regulation III of 1826, it is necessary that the contradiction between the two depositions should be "direct and positive" - Before the

the Joint Criminal Judge the three witnesses deposed that they saw this prisoner stab but before the Court of Quarterly Sessions they said they were not sure whether it was this prisoner or his elder brother. Now according to the evidence before the Police and before the Joint Criminal Judge both brothers were there, and both took an active part in the Assault. That there is at least some resemblance appears from the evidence of the 4th Witness before the Court of Quarterly Sessions, although he says, and perhaps with truth, that he could distinguish between them at the distance of 50 Rolls. If the Witnesses had persisted in swearing before the Court of Quarterly Sessions that it was the prisoner's elder brother, and not the prisoner himself, whom they saw stab, then the contradiction would have been "direct and positive", and no doubt could have existed as to the propriety of committing them for perjury. But here it is not so. They only speak hesitatingly of what they spoke positively before; but they do not say positively that it was not this prisoner, but that it was either this prisoner or his brother; they are not sure which; and putting out of consideration the alleged resemblance between the two brothers, the Court think it very likely that their last deposition was nearer the truth than the first. A Native witness is too apt to speak positively

positively when he ought to qualify his expressions; and it is very possible that if the Joint Criminal Judge had asked these men to recollect themselves, and had brought the prisoner's elder brother particularly to their notice, they might at first have qualified their evidence.-

3. The Court are far from exculpating these prisoners; on the contrary there is no doubt they prevaricated, and they would appear to have been influenced by bad motives. All they wish to notice is that their commitment for perjury does not appear to have been warranted under the provisions of the Regulation. If a variation like this, is to subject a witness to the penalties of perjury, the duty of giving evidence will become very perilous; and there may soon be little chance of arriving at the truth.-

4. The second Judge has expressly stated, in his letter of the 25th February, that the indictment in this case was drawn up in the form prescribed in this Court's orders of the 31st January 1820. But notwithstanding this assurance the Court are inclined to think that the Circuit Judge has given a construction to these orders different from that intended by this Court - for in a case such as that before stated, it hardly seems possible that the orders of this Court can have been correctly obeyed in the sense in which they are understood at the Presidency.-

5. It is accordingly resolved to

23d June 1829. to call for a copy and translation of the indictment in question; and to direct that, until further orders, the sentence in the case of perjury be suspended - The second Judge will submit any explanation he may have to offer on the foregoing view which the Judges have taken of the case of perjury in question, in order that they may take the same into consideration before passing any final order in that case.-

Ordered that extract of these proceedings be transmitted to the second Judge of the Provincial Court of Circuit in the Western Division by precept - return to be made without delay.-

/Sent following precept No 227/

Read return dated 10th Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 25th ultimo directing the circulation of this Courts Proceedings relative to the question "whether in Criminal cases punishable by the Criminal Court itself, it is imperative on the Criminal Judge to grant to the accused the privilege of a defence and witnesses."-

/Here enter No 357 of 1829/

Read letter dated 13th Instant from the first Judge on Circuit in the Northern Division, reporting his arrival at Masulipatam.-

/Here enter No 356 of 1829/

Read return dated 10th Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 1st instant desiring them to circulate to the Criminal

23d June 1829. Criminal Judges and Magistrates the extract from this Courts Proceedings relative to the modes to be observed respecting insane prisoners.-

/Here enter No 358 of 1829/

Read return dated 12th Instant from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 1st instant - desiring them to furnish the several Criminal Judges in their Division with a copy of the Extract from this Courts Proceedings explanatory of the modes to be observed with regard to insane prisoners.-

/Here enter No 363 of 1829/

Read return dated 11th instant from the Provincial Court of Circuit in the Centre Division to precept dated 8th instant desiring them to communicate to the Criminal Judges in their Division, this Courts remarks on their Criminal Reports for March last.-

/Here enter No 362 of 1829/

Read return dated 12th Instant, from the Judges of the Provincial Court of Circuit in the Western Division to precept dated 27th ultimo desiring them to circulate to the several Criminal Judges in their Division, this Courts decision on a question regarding the propriety of sentencing a fresh or demanding security from a person already convicted and undergoing his sentence for a second crime committed before that sentence was passed.-

/Here enter No 361 of 1829/

Read letter dated 11th Instant from the second Judge of the Court of Circuit in the Western Division, transmitting the

the warrant issued for the execution of the sentence passed by the Court of Foydaree Adalut on Moondoo Kundoo Poolleyan Chatoo prisoner in Case No 11 on the Calendar 1st Quarterly Sessions 1829 of the Auxiliary Court of Malabar with an endorsement certifying the execution thereof.-

/Here enter No 360 of 1829/

Read return dated 10th Instant from the Third Judge in Circuit in the Centre Division to precept dated 15th instant desiring that Officer to explain the reason why he did not obey the exigence of the Precept of the 7th Ultimo.-

/Here enter No 371 of 1829/

Read letter dated 15th instant from the 2d Judge of the Court of Circuit in the Western Division transmitting the Warrant issued for the execution of the prisoners in Case No 2 on the Calendar fourth Quarterly Sessions 1828 of the Auxiliary Zillah Court Malabar with an endorsement certifying the execution thereof.-

/Here enter No 373 of 1829/

Read return dated 8th instant from the Provincial Court of Circuit in the Centre Division to precept dated 1st instant directing the circulation of the proceedings of the Foydaree Adalut respecting the course of proceedings to be adopted in cases of insane prisoners.-

/Here enter No 348 of 1829/

Read

Read letter dated 5th Instant from the Provincial Court of Circuit in the Centre Division, forwarding a copy of a return from the Acting Criminal Judge of Bellary in explanation of the case No 7. on the Criminal Report No 5 noticed in this Courts proceedings of the 6th Ultimo.-

/Here enter No 349 of 1829/

Read return dated 8th Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 18th Ultimo directing them to communicate to the several Criminal Judges whom it may concern, the Courts proceedings on their Criminal Reports for January.-

/Here enter No 351 of 1829/

Read letter dated 17th Instant from the 2d Judge late on Circuit in the Centre Division, forwarding the Warrant issued for the execution of Boogum Condadoo No 10 of the Cuddapah Calendar 2d Sessions of 1828 with an endorsement certifying the due execution thereof.-

/Here enter No 366 of 1829/

F.16.
Exd.
U 20

F.16.

At a Court of the Foujdarry Udalut,

Present,

Thursday 25th June 1829 } F. F. Grant Esquire, ----- }
James Cochrane Esquire, --- } Judges
William Oliver Esquire -- }

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Read Petition presented by Venkatachariar of the Zillah of Chittoor.

/Here enter N. P. No. 15 of 1829/

This is a Petition complaining of the acquittal of certain prisoners who were tried at the Second Quarterly Sessions of 1829 at Chittoor, on a charge of Affault and wounding; and praying the Court to call for the Proceedings &c.

The Court having already directed, in their proceedings on the Calendar received from the Judge who presided at the said Sessions, that all the parties in the case in question (No 2) should be bound over to keep the peace.- Ordered that the same be communicated to the Petitioner.- It is not considered necessary to institute further proceedings in this case.-

Read letter dated 10th Instant from the Provincial Court of Circuit in the Southern Division submitting the Reports prescribed by Section XXXI, Regulation X of 1816 from the Criminal and Joint Criminal Judges in that Division for the month of March last, together with their correspondence thereon.

/Here enter No. 355 of 1829/

Salem. 1. The Judges desire that the Criminal Judge in the Zillah of Salem be directed to revise the sentence passed on

on the prisoners in Case No. 27/1829 of this Supplemental Report.- By section VIII Regulation VI. of 1827 it is not competent to the Criminal Judge in any case to remand security for a longer period than 12 months. Should the release of the prisoners at the expiration of this limited period appear to the Criminal Judge to be unsafe, that Officer should proceed as directed in 4th Clause third of the above section and Regulation.-

2. A similar remark is applicable to the sentences passed on the 4th 5th 8th 9th 10th 11th 12th 13th & 14th prisoners in Case No. 42 of the Supplemental Report. And on the prisoners in Case No. 74 of the Report No. 5.-

3. The Criminal Judge of Salem is also directed to revise the Sentence passed by him on the 3rd 6th 7th 8th 9th 16th 17th 18th 19th 80th 81st 82d 83d 84th 85th 88th 90th 92d 93d 94th 95th 96th 97th 100th 101st 103d 16th 17th 30th 31st 32d 33d 34th 35th 37th 45th 47th 49th 50th 51st 52d 53d 54th 55th 72d & 102d prisoners in Case No. 29 of the Supplemental Report, as also the Sentence passed on the prisoner in Case No. 67 of the Report No. 5, agreeably to the Circular Orders of the Sudder Adalut dated 31st October 1828, which direct that the term for which security whether by personal recognizance or by the responsibility of Sureties, is to be given, and the period for which a prisoner may be detained in confinement in default of giving security shall be the same.-

4. The Judges desire that the Criminal and Joint Criminal Judges in this Division be directed to omit in future the Column in the Report No 5 headed "Before what

25th June 1829.

"what Court of Circuit to be tried" this information being considered no longer necessary.-

Ordered that extract of these proceedings be furnished to the Provincial Court of Circuit in the Southern Division directing them to make the necessary communications - precept returnable within 10 days from and after its receipt.- /Sent following precept No. 232/

Read letter dated the 10th instant from the Provincial Court of Circuit in the Centre Division submitting the Reports prescribed by Section XXXV. Regulation X of 1816 received from the several Criminal and Joint Criminal Judges within the Division for the month of April last, together with their correspondence thereon.- /Here enter No. 367 of 1829/

Chittoor. The Criminal Judge of Chittoor it appears has called upon the Magistrate to furnish an explanation of the detention of the prisoners in Case No. 64 beyond the prescribed period.- The Circular Orders of the Sudder Adalut of the 5th November 1823 were in this respect cancelled by their subsequent orders of the 13th September 1824.- The latter direct that the communication prescribed by the 5th Para: from the Criminal Judge to the Magistrate shall not be made when the latter has passed over without observation the proceedings of the Police.- In the only other case, when the Magistrate had observed upon the Police proceedings, agreeably to the former part of the same Circular Orders, he must communicate his remarks to the Criminal Judge - and the duty of noticing to the Magistrate any Case in which he has admitted insufficient reasons for the detention of a prisoner by the Police is by Para: 5 expressly assigned to the Provincial Court of Circuit.- So that under the Circular orders of the 13th September 1824 there is no case in which it can be the duty of a Criminal Judge, to communicate with the Magistrate on this subject.- The

25th June 1829.
Bellary.

The Criminal Judge has omitted in the sentence passed on the 2d prisioner in Case No 2 of the Report No 5. to specify the particular circumstances of aggravation which brought the case under the provisions of Clause fourth section III Regulation VII of 1822, as required by the orders of the Fojdaree Adalut dated 13th August 1823.-

Ordered that extract from these Proceedings be transmitted to the Provincial Court of Circuit in the Centre Division desiring them to make the necessary communication to the Criminal Judge of Chittoor and Bellary- Precept returnable within 1 week from and after its receipt.-

/Sent following precept No 233/

Read letter dated 11th December 1828 from the Third Judge on Circuit in the Southern Division with record of the trial in Case No 12 Salem Calendar Second Sessions 1828.-

/Here enter No 17 of 1828/

Read letter dated 7th January last from the Acting Judge of the Court of Circuit in the Southern Division Reporting the death of the 5th prisoner in the referred case from Salem 2d Sessions of 1828- No 12.-

/Here enter No 20 of 1829/

Read letter dated 14th January last from the Acting Judge of the Court of Circuit in the Southern Division with copy of a letter from the Criminal Judge at Salem reporting the death of a Prisoner whose case is under reference to the Fojdaree Adalut being No 12 of the Salem Calendar 2d Sessions 1828.-

/Here enter No 40 of 1829/

Read letter dated 19th May last from the 3d Judge late on Circuit in the Southern Division forwarding a letter from the Criminal Judge of Salem reporting the death of the prisoner Palanee in Case No 12 of the Calendar for the 2d Sessions of 1828- now under reference.-

/Here enter No 314 of 1829/

The First, Second and Third Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners is sufficient to convict them of the crime of murder do, under the authority of Act with

F.6.
25th June 1829

with which they are vested by clause first section II Regulation I of 1815, convict them thereof, and sentence the prisoner,

1st "Caavary",

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 the prisoners,

2d "Cholien",
4th "Cotammugalem Pulivay",
6th "Nadenda Mooten",
and
7th "Caully",

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.-

There is nothing but circumstantial evidence in this case, but that appears to be of the strongest kind. It is perfectly clear that the deceased came by a violent death, and that his murderers attempted to make it appear that he had been his own executioner. It is also perfectly clear that he had been kept in illegal confinement by the first prisoner on a pretended suspicion of theft. Then there is evidence, which the Court see no reason to distrust, that the prisoners during the night left the cow-shed where they and the deceased were sleeping, and that on their return they said that the deceased had made his escape. The prisoners some of them at least, returned a little before day light. In the next place there is the evidence of the 3d and 4th witnesses

witnesses to prove that a voice like that of the first prisoner was heard uttering a remarkable exclamation near the spot where the dead body was afterwards found. This was during the time that the prisoners were absent from the Cowshed, as appears very clearly from the evidence. The next remarkable circumstance is that the 3d, 4th, 5th and 6th prisoners should have gone to the Village Moonsiff to report the escape of the deceased. This was before the dead body was discovered; and appears to the Court very suspicious. The simple escape of the deceased was of no consequence whatever to these prisoners. They had not charge of him, and some of them at least were under the same restraint as the deceased, and apparently for the same cause. The Village Moonsiff had expressly ordered the 1st prisoner to release the deceased - This order the first prisoner disobeyed; and that makes strongly against him, and renders it the more extraordinary that the 4 prisoners above mentioned should have gone to report the escape of the deceased. The Court think it must be inferred that they knew what had happened, and took this method of diverting suspicion from themselves. - After the most anxious consideration of the case, the Court are satisfied that the prisoners were all more or less concerned in the murder, and that the first Prisoner was evidently the principal, the others being merely his tools.-

2. The Court direct that the attention

attention of the Criminal Judge of Salem be called to the irregularity of the course he pursued in the examination of the prisoners and witnesses - To the 1st Prisoner were put no less than 28 Questions, and to the 2d Prisoner 19; and of the greater part of the Witnesses the examination commenced, instead of being concluded, with reading over to them of their former depositions before the Police Officer.

Ordered that a copy of Para 2 be transmitted to the Third Judge of the Provincial Court of Circuit in the Southern Division to be by him furnished for the information and guidance of the Criminal Judge in the Zillah of Salem.-

Sent following letter No 234

Read letter dated 12th January last from the Second Judge of the Court of Circuit in the Western Division submitting record of trial in Case No 9 on the Calendar of the Auxiliary Court in the Zillah of Malabar fourth Quarterly Sessions 1828.-

Here enter No 49 of 1829

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge of Circuit, the futwa of the Provincial Law Officer and the futwa of the Cazee-ool-Coozat and Mooftees of the Foujdaree Adalut, confirm such part of the futwa of the Cazee-ool-Coozat and Mooftees aforesaid as acquits the prisoners

1st "Parapoorata Kummally Kunhy Cootty,"
4th "Pothookoody Kunhy Cootty,"
5th "Pellamungalatwen Ayissul" and
6th "Adyoody Ryrapen,"

and direct that they be set at liberty; and being of opinion that there is not sufficient

25th June 1829. sufficient evidence against the prisoners,
2d "Rawary Tajekandy Rangaren",
and
3d "Vattakundile Ecan
Koondeary Kunnaiten",
do acquit them also, notwithstanding the
futwa of their Law Officers, and direct that
they, the said 2d and 3d Prisoners, be likewise
set at liberty.-

Setting aside the alleged con=
=fessions of the prisoners, there is no proof that
the house was robbed at the time of the
murder, admitting the murder to have been
committed, for even of that the usual evidence
is not produced. Even the prosecutors appear
to have had a very imperfect knowledge of
what the property in the house consisted;
and as they did not live in the house they
probably did not know where it was usually
kept - This is a point of great importance,
because for all that appears to the contrary,
the whole of it was discovered in a room
of the same house; and there is no evidence
to induce the belief that it was not placed
there by the deceased Chinda Kooroo himself.
None of the witnesses examined were
qualified to give an account of the property,
or to say where it was usually kept. The
evidence of the 1st witness, which goes to
affect only the 5th prisoner, does not appear
to the Judges to be entitled to credit. He
kept all his information to himself for 17 or
18 days; and it is impossible to reconcile
this concealment with the fact, which he
swears to on the trial, that he was frightened
by

F.16.

25th June 1829. by observing blood on the 5th prisoner's cap.
The second Judge indeed discredits this
part of his testimony; and the Judges of the
Foujdaree Adalut do not think that they
have any rational grounds of reliance upon
any part of it.-

2. The next material evidence
is that of the 4th and 11th witnesses; and that
goes to affect the 1st, 2d, & 5th prisoners -
The 11th indeed speaks positively only to
the 5th Prisoner - The Judges look upon
the evidence of these witnesses to be, if
possible, less entitled to credit than that
of the first witness - They heard of the murder
on the morning after it had been committed
and about the time at which it is said
to have been committed they pretend to have
seen the prisoners above mentioned close
to the spot; and yet they never mentioned
the circumstance till 15 or 16 days afterwards
although the 1st and 2d prisoners were
taken into custody on suspicion 10 days
after the murder - From the apathy of
the natives in matters of this sort, if
the Judges under ordinary circumstances
would not be inclined to attach much
importance to the silence of these three
witnesses for upwards of a fortnight; but
it is stated by Mr. Vaughan that the
Police on this occasion displayed an
unusual degree of "activity, prudence and
temper;" and if this were the case it is
impossible to understand how it happened
that these witnesses were not induced
before to give the information which

they

they professed; particularly the 4th and 11th who resided near the spot, and could not possibly be ignorant of the enquiries that were immediately set on foot. After all, the disclosure was not made in the first instance to the Police; but to one of the prosecutors, who happened accidentally to go to the 4th witness' shop. It is remarkable also that these witnesses were not examined by the Tahsildar till the 31st August, long after he had sent up the whole of the prisoners to the Criminal Court; and the Judges think there is great reason to fear that these two witnesses, if not the 5th, were procured merely to bolster up the alleged confessions of the prisoners.

3. The principal inducement of the Circuit Judge for crediting the testimony of the 12th witness, whose evidence goes to affect only the first Prisoner, seems to be drawn from its consistency with a fact which appears on the face of the alleged confession of that prisoner, viz. the little caution used by the prisoner in selecting his agents; but it is overlooked that the evidence of this witness is valuable only as it corroborates the confession; and therefore nothing in the confession itself can be adduced to support the credit of the evidence. That would be to assume the truth of the confession as the ground of believing the evidence adduced to corroborate it, whereas the evidence is produced to prove

prove the truth of the confession. The Judge think this mans evidence extremely improbable on the face of it; but admitting its truth they should hesitate much before they could bring themselves to look upon it as a decisive corroboration of the 5th prisoners confession. His examination before the Police, if he was examined by them, does not appear. The only remaining fact in corroboration of the alleged confession is, that the first prisoner pointed out the supposed plundered property. It has already been stated that there is nothing to warrant the assertion that a robbery was actually committed; No evidence to prove that a single article of the property was taken from the house, or removed from the place where it was kept by the deceased persons. Now it must be observed, that after the murder the 5th prisoner went and resided in the Chandrote house till he was taken into Custody. The Police examined the Duraporata house which he had quitted; but it never occurred to them to search the Chandrote house, to which he had removed as having become his own by the death of Chinda Kooroop. Why did they not search the Chandrote house? Because their discovery of the property there would have gone for nothing. It was the proper place for it; but it

25th June 1829.

it was necessary to make the 1st prisoner go through the ceremony of pointing it out, and adding that it was the "stolen property."-

4 It appears to the Judges of the Foujdaree Adalut that the alleged confessions of the prisoners stand absolutely without the slightest corroboration - The 1st and 2d prisoners were 12 days in confinement before their alleged confessions were taken - And the confessions themselves bear evident marks of fabrication - It is hardly credible that they could recollect and describe such minute occurrences - Next there is the extraordinary fact that no less than four persons were lying close to the bin from which the property is alleged to have been taken, and yet not one of them was examined.

5 Many other observations might be made upon this trial - The Judges have purposely omitted to notice the evidence for the defence, which however is very strong as far as it goes.-

6 In directing the unconditional release of all the prisoners, the Judges resolve to call upon the second Judge to explain on what principle he considered himself justified in detaining the 4th and 6th prisoners against whom they cannot discover a particle of evidence of any kind.-

Ordered

Fl6:

25th June 1829.

7. Ordered that extract of these proceedings be transmitted to the Second Judge of the Provincial Court of Circuit in the Western Division, and that he be required to furnish the information desired in the last para, without delay:-

/Sent following letter No 235/

Read letter dated 20th December 1828 from the Third Judge on Circuit in the Southern Division with record of trial in Case No 10. Salem Calendar Second Sessions 1828.-

/Vide entry No 722 of 1829/

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the Case in evidence before them, being of opinion that the proof against the prisoners is sufficient to convict them of the crime of Perjury, do, under the authority with which they are vested by Clause First Section III Regulation II of 1818, convict them thereof, and under Clause First Section III Regulation VI of 1811 sentence the prisoner,

1st "Vencatapatty Naik",

to be publicly exposed, in the mode commonly denominated tuchee, and to be banished to the Bellore Zillah and there imprisoned and kept to hard labor in irons on the public roads or other public works, in the Jail of the said Zillah, for and during the period of Seven years; and the prisoner,

2d "Coobbee Naik",

to be imprisoned and kept to hard labor

labor in irons on the public roads or other public works for and during the period of four years.-

The prosecution in this case of perjury was the party accused in the other criminal charge in which that perjury was committed.- The charge for perjury ought never to have been received from such a party, but with reference to section VIII Regulation II of 1822 extending the provisions of section XXIX Regulation IX of 1816, should have been preferred by the Magistrate himself before whom the crime was committed.-

2. The indictment also, upon which the prisoners were arraigned before the Court of Circuit, was not drawn up in the form prescribed by the Circular order of this Court dated the 31st January 1820.- The 3d Judge ought to have taken precautions against such an oversight.

3 Ordered that extract of these proceedings be transmitted to the Third Judge of Circuit in the Southern Division, and that he be directed to furnish for the information of the Magistrate and the Criminal Judge of Salem such parts as concern those Officers respectively.-

/Sent following letter No 230/

Read Petition presented by Alagherry Naik calling himself the son of Venkatapoutty Naik & the

the first Prisoner in the above Case.-

/Here enter M.P. No 16 of 1829/

This is a Petition complaining of the whole proceedings in the above Case, /No 10 Salem Calendar Second Sessions of 1828 the trial of which has been referred to this Court/ as the result of a conspiracy; and praying for the release of the Petitioner's father the first Prisoner.-

2 The said First Prisoner having been only convicted, has been sentenced to be publicly exposed and to be banished to the Zillah of Bellary, there to be imprisoned and kept to hard labor for the term of seven years.-

3 Ordered that the same be communicated to the Petitioner.-

Read return dated the 20th instant from the Third Judge on Circuit in the Southern Division to precept stated 15th instant directing him to transmit the Proceedings in cases No 1 and 3 of the Calendar of the Auxiliary Court in the Zilla of Cuddapah for the 1st Sessions of 1829 and in No 2 and 3 of the postponed Calendar.-

(Here enter No 379)

Read return dated the 15th instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 11th ultimo directing that Court to communicate to the several Criminal Judges the remarks of the Foujdaree Adawlut on the Criminal Reports

8th June 1829.

Reports ending December last.—

(Here enter No. 383)

Read letter dated the 19th instant from the 3d Judge late on Circuit in the Northern Division, transmitting the original warrant issued in case 164 on the first Calendar Nellore 2nd Sessions of 1828 with an endorsement certifying the execution thereof.—

(Here enter No 385)

Read return dated the 15th instant from the Judges of the Provincial Court of Circuit in the Northern Division, to precept dated 21st ultimo directing that Court to communicate to the several Criminal Judges the remarks of the Foujdaree Adalut on the Criminal Reports for February last.—

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(Here enter No 386)

Read letter dated the 17th instant from the Provincial Court of Circuit in the Northern Division, submitting the Reports prescribed by Section XXXV Regulation X. of 1816 for the Month of April last.—

(Here enter No 387)

F. A.

At a Court of the Foujdaree Adalut

Present,

Thursday 2nd July, 1829. C. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

Read Petition presented by Lyaloo Soobayer of the Zillah of Chittoor

(Here enter Mis. Petn No 13 of 1829)

24d 20 dd

This is a Petition complaining of the dismissal, by the Head Assistant Magistrate of Chittoor, of a complaint preferred by the Petitioner against one Sinnoo Vijan and others for having plundered a heap of grain— The Petitioner alleges that the charge was dismissed in consequence of the evidence having been misrepresented to the Assistant Magistrate by the Servants in his Cutcherry, who have been in the interest of the parties accused. That having brought the circumstance to the notice of the Magistrate, that Officer referred him to the Circuit Judge, to whom he appealed accordingly but he also refused to interfere— The Petitioner produces both the original Petitions alluded to, the one to the Magistrate bearing an endorsement dated the 6th March 1829, to the effect

2nd July 1829.

effect that as the case appeared to have been decided by the Head Assistant Magistrate, no order could be passed by the Magistrate; but the Petitioner was at liberty to appeal to the Court of Appeals if he was dissatisfied with the decision and that to the Second Judge presiding at the Chittoor 2nd Quarterly Sessions of 1829 endorsed in English as follows. "The Second Judge has carefully looked over the "proceedings of the Assistant Magistrate "and sees no cause for granting the "prayer of the Petition."

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The Court are of opinion that the Magistrate ought to have examined the Petitioner's allegations against the Head Assistant; but as the Judge presiding at the Quarterly Sessions appears to have gone into the Case, the Court see no ground for their interference further than to communicate this opinion.—

Ordered accordingly that the Petition be rejected, and that extract of these proceedings be transmitted to the Provincial Court of Circuit in the Centre Division to be by them furnished to the Magistrate of Chittoor

2nd July 1829. Chittoor for his information and guidance.—

Sent following letter No 23, A

2 Mi 30 dl

F.C.

At a Court of the Foujdaree Udalut,
Present,

Monday 6th July 1829 — F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges

Read letter dated the 3d. ultimo from the Magistrate of Guntoor, forwarding an extract from the Report of Cases received from the Heads of Police and disposed of by the Criminal Judge of that Zillah in the month of April last.—

(Here enter No 343 of 1829.)

1. The extract includes two Cases Nos 118 & 28, in which the accused are stated to have been released because there appeared to be no punishment provided in the Regulations for the offences with which they were charged, and the Mooftee of the Court had declared that under the Mohummudan Law they ought to be set at liberty.—

2. In the first Case the Prisoner is stated to have been charged with having used violent language and threatened to stab another person to death.— In the second, four Prisoners appear to have been charged with having violently assaulted and threatened to kill the two Prosecutors, and also with having robbed from the 1st Prosecutor the sum of 25 Rupees.— In this case the 2d Prisoner was punished in consequence, it seems, of his having been convicted of the robbery.—

3. The Magistrate explains as the reason of the present reference, that he considers the sentences in these cases to

6th July 1829.

to involve a question deserving of consideration and remedy; and he states that the accused in both cases were most determined in their behaviour, and that the lives of the prosecutors were only saved by the collecting bystanders.-

4. The Prisoners in Case No. 224 would appear, from the statement of the charge against them, to have been guilty of Gang Robbery, and consequently it was not competent to the Criminal Judge to dispose of the case. The Judges desire that the Provincial Court do call for, and furnish this Court, an explanation on this point from the Criminal Judge.-

5. As to the grounds on which the Prisoners were released in the other case the Judges have to observe that on putting the question to the Cazee-ool-Coozat and Mooftees of their Court, those Officers have declared that a person convicted of the Offence charged in Case No. 11, is, by the Mahomedan law, liable to Tazeer, and to punishment either by flogging or imprisonment

6. The Judges resolve to communicate copies of the said question and answer for the information and guidance of the Criminal Judge of Guntoor, thro' the Provincial Court of Circuit in the Northern Division, and at the same time to direct that the Criminal Judge require from the Mooftee of his Court, and transmit for their information, an explanation of the grounds on which he gave what would thus seem to have been such an erroneous exposition of the law.-

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

/Sent following precept No 241/

The

6th July 1829. The Cazee-ool-Coozat and Mooftees of the Foujdaree Adawlut

You are requested to state whether, a person charged with having used violent language and threatened to stab another to death, is, on conviction, liable to any punishment, under the Mahomedan law. and, if so, to what punishment.-

Answer

The person abovementioned is liable to Tazeer at the discretion of the Hakim, and to punishment either by flogging or imprisonment.

Read letter dated 27th Ultimo from the Third Judge on Circuit in the Centre Division reporting the death of Sadachee the prisoner in Case No. 4 of the Chingleput Calendar 1st Sessions 1829.-

/Here enter No 390 of 1829/

Read return dated the 27th Ultimo from the Second Judge of the Provincial Court of Circuit in the Centre Division to precept dated 23d Ultimo, directing that officer to bind over both parties in Case No 8 of the Chittoor Calendar 2d Quarterly Sessions of 1829.-

/Here enter No 393 of 1829/

Read return dated 29th Ultimo from the Provincial Court of Circuit in the Centre Division to precept dated 25th June directing them to communicate to the Criminal Judges of Chittoor & Bellary the remarks of this Court on their Criminal Reports for the month of April last.-

/Here enter No 397 of 1829/

F.C.

At a Court of the Foujdaree Adaulut,
Present,

Friday, - - -
10th July 1829.

F.A. Grant Esquire, - - -
James Cochrane Esquire, - -
William Oliver Esquire, - -
} Judges

Read return from the Provincial Court of Circuit in the Western Division, dated 30th ultimo to the precept of this Court dated the 15th ultimo - as also the letter from the Joint Criminal Judge of Malabar to the Provincial Court, copy of which is therein enclosed.-

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//Here enter No. 409 of 1829//

1. In consideration of the Court having so recently had occasion to animadvert on the conduct of the Joint Criminal Judge of Malabar - the Judges are not inclined to notice severely the omission on his part to submit the explanation called for by them,- But they direct that the Prisoners in case No. 26 of the Supplemental Report for the month of April be forthwith discharged, for the reasons stated by the Judges of the Provincial Court.-

Ordered that extract from these Proceedings be forwarded to the Provincial Court of Circuit in the Western Division for their information and guidance and that it be pointed out to them, that they should communicate with the Joint Criminal Judge, by precept, rather than by letter.-

//Sent following letter No. 2477//

Read

6th July 1829

10th July 1829

Read return dated 26th Ultimo from the Judges of the Provincial Court of Circuit in the Southern Division to precept 7th Ultimo directing that Court to orient to the several Magistrates and Courts subordinate to them, the extract from the Proceedings of this Court dated 4th Ultimo regarding insane Prisoners.-

(Here enter No 405 of 1829)

Read return dated 29th Ultimo from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated 25th May last directing the Provincial Court to furnish the Criminal and Joint Criminal Judges with a copy of the extract from the Proceedings of this Court respecting the Privilege of a Prisoner to call for evidence in his defence when under trial before the Criminal Court.-

(Here enter No 406 of 1829)

Read letter stated 27th Ultimo from the Third Judge of the Court of Circuit in the Western Division submitting copy of the Tellicherry Calendar for the second Quarterly Sessions of 1829, with copies of the original Returns.-

(Here enter No 408 of 1829)

Read letter dated 29th Ultimo from the First Judge on Circuit in the Western Division submitting copies of the Calendars of the Auxiliary Court at Honore for the 1st Sessions of 1829.-

(Here enter No 411 of 1829)

Read letter dated 6th instant from the Acting Judge on Circuit in the Southern Division acquainting that the Circuit Court arrived at Mangalore.-

(Here enter No 425 of 1829)

F. H.

At a Court of the Foujdaree Adalut.

Present,

Monday 13th July 1829.

F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Aliner Esqre 3rd Puisne Judge

Read letter dated the 4th Ultimo from the Second Judge late on Circuit in the Southern Division, with the Calendars of persons committed by the Criminal Judge and the Joint Criminal Judge in the Zillah of Salem, and by the Native Criminal Judge of Callegaud, for trial at the First Sessions of 1829.-

(Here enter No 381)

Para 1 The only remark which the Judges of the Foujdaree Adalut deem it necessary to make on the Calendars of the Criminal Judge, applies to cases, in the sentences passed in which, on the convicted prisoners, appear to them hardly commensurate to the heinous offence of which they were guilty, viz that of having committed an outrage in defiance of the Legal authorities, and endangering the peace of the country. But from the confidence they are inclined to place in the known judgment and discretion of the presiding Judge, the Court think that had the particular circumstances of the Case warranted severer punishments

punishments, such would have been inflicted
2 ... In case upon the supplemental
Calendar of the Native Criminal Judge
of Calleganl, the Court wish to be
informed how it happened that the
prisoner was twice sworn before the
Native Judge; for from the Calendar this
is not very intelligible.-

Ordered that extract of these
proceedings be transmitted to the second
Judge late on Circuit in the Southern
Division and that he be directed to
furnish the explanation required
in Para 2; making his return within
one week.-

(Sent following Precept No 253)

Read return from the Third
Judge late on Circuit in the Central Division
to this Court's precept of the 7th May last
calling for certain information with
respect to case No 25 on the Cuddapa
Calendar for the first Sessions of 1829.-

(Here enter No 365)

The charge against the prisoners
in this case was for having "prefer
"the throat of the prosecutors wife, and
"robbed from her person, a gold necklace,
"cloths" &c. This woman never has been
examined, and the Judge's consider this
omission material. The admission
of the Circuit Judge that no evidence to her

is proved, and that the loss of her necklace
is not established, goes strongly to the
presumption that her evidence could
not benefit the case, and therefore is
in favor of the assertion of the prisoners,
that the charge is false- It was charged
that the clothes were robbed from her
person- But the Circuit Judge states
that all that has been proved is that
the prisoners, who had been watching
the house, unbolted the door in the
night, and that 3 witnesses roused by
the cries of the prosecutors wife, ran
in to the room, and found the 1st prisoner
threatening to strike the prosecutor,
and that the prisoners "quitted the house,
"carrying away with them some
"clothes lying on a plat form"- Now
the carrying away the clothes, which
seems to be the act for which they are
condemned, appears to have been done
after the witnesses were alarmed by cries
and came to succor them- it was from
a plat form, not from the womans
person, they were carried away, and
they seem to have been carried away
openly, in the presence of three witnesses-
The prisoners it is true falsely stated
to this Court that none of these witnesses
were examined- But the total failure
of the original charge of violence, the
fact

15th July 1829.

fact that the clothes were carried away openly in the presence of witnesses after alarm given - and that the necklace was not carried away at all - the non recovery of any of the property - and the apparent want of proof of the clothes belonging to the prosecutor induce the Judges to doubt the propriety of this conviction and to call for a translation of the whole trial previously to passing a final order on the case -

Ordered, that extract from these proceedings be sent to the Third Judge late on Circuit in the Central Division by precept returnable in two days from and after its receipt -

(Sent following Precept No 251)

Read letter from the 2nd Judge of the Provincial Court in the Western Division, stating his objections against the construction given by this Court to Section V Regulation VII 1822 -

(Recorded No 491. of 1828)

It appeared on a former reference from the 2d Judge of Circuit that he doubted the power of a Criminal Judge to sentence a prisoner to the punishment provided in Section V Regulation VII 1822 for escape, in addition to 2 years imprisonment and 30 stripes which

F. H.
15th July 1829

which in ordinary cases is the limit of his authority - But this Court ruled that the offence of escape is distinct from all others, because it must be in addition to a former offence, or at least to an accusation of one, - and that the Criminal Court had clearly the power to order the punishments provided in the said Section, on a conviction of escape, in addition to any other punishment which a prisoner may be undergoing for a distinct offence; or to the empris- sonment to which he may have been sentenced for default of security -

Under the further arguments urged by the 2d Judge the Court of Judicature do not see reason to alter this construction of the law. It clearly applies both to convicts under sentence, and to prisoners not convicted held to security - as well as to persons apprehended and detained in custody on a criminal charge previously to trial, on whom a minor punishment is to be inflicted. It accordingly includes all criminal prisoners convicted, or not, escaping either

from

13th July 1829.

either from jail, or from the custody of their guards - and the Judges think that it also applies to accused persons under charge of the police, who may escape from their guards before they are delivered to the Criminal Court, or to the Magistracy.-

By Section XXIII Regulation VIII 1802 all guards in charge of convicts who escape are liable, for wilful neglect to dismissal, and for connivance or further criminality to trial before the Court of Circuit.- By clause first Section VII Regulation I 1810, which continues unrescinded, "this provision is extended "to guards having had charge of prisoners "who may escape from their custody "whether before, or after, conviction."-

Connivance on such occasions can be proved only by circumstantial evidence- If it be proved that the guards have been bribed, or tampered with- that the escape occurred in the open day without their resistance, or that the usual precautions for securing the prisoner were purposely omitted. connivance may be clearly inferible, and the guards punishable accordingly-

As the foregoing observations involve the construction of one important part

13th July 1829.

part of the code, respecting the punishment both of guards and prisoners, in cases of escape, the Judges resolve to communicate the same to the four Provincial Courts of Circuit to be by them circulated to the several Criminal Courts and Magistrates for their information and guidance.-

Sent following letters No 252

Ordered that extract of these proceedings be sent to the Judicial Secretary to Government agreeably to orders of Government dated the 19th October 1824.-

Sent following letter No 253

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1810
from

F. H.

At a Court of the Foujdaree Adalut.

Present,

Thursday, 16th July, 1829. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge.

Read Petition presented by Vontrolloo Atchama of the Zilla of Cuddapah (Here enter Dissc. Petr. No. 14 of 1829)

This is a Petition complaining of the sentence passed by the Court of Circuit on the 1st and 2nd Prisoners in Case No. 34 Cuddapah Calendar First Session 1829, and praying for their release. the Petitioner describing herself as the sister of the first Prisoner.

It is stated in the Petition that Witnesses were named by the Prisoners but that their evidence was not taken; and it does not appear by the Calendar that any such Witnesses were examined or summoned.- The Court therefore direct that a copy of the Petition be transmitted to the Third Judge late on Circuit in the Centre Division with instructions to report whether this part of the Petitioner's statement is correct, and

if

5th July 1829.

if so, to explain why the Witnesses alluded to were not examined or summoned.-

Ordered that extract of these proceedings be sent to the Third Judge late on Circuit in the Centre Division by precept returnable in one week from and after its receipt.-

(Sent following precept No 255.

Read Petition presented by J. Tydeman dun of the Zilla of Chingleput.-

(Here enter Miss. Petn. No 17 of 1829)

This is an appeal from an order of the Third Judge late on Circuit in the Centre Division rejecting an application from this Petitioner on the ground of the matter of complaint being of a Civil nature.-

For the same reason this Court likewise can take no cognizance of the Petition, which is accordingly rejected.-

Read return dated the 2nd Instant from the Second Judge of the Provincial Court of Circuit in the Western Division, to the Courts Precept of the 28th Ultimo, calling for a copy of the indictment in case No 1 of the Madura Auxiliary Court on the additional Calendar

10th July 1829. Calendar for the Fourth Quarter Sessions of 1828.-

(Here enter No 418)

However culpable the Prisoners in this Case may have been, it is clear to the Judges of the Foujdaree Adalut that they ought not to have been committed for Perjury under Regulation III of 1826. The contradiction between their two depositions, as Witnesses in Case No 11 on the Calendar for the same Sessions, was not "direct and positive," and a "direct "and positive" contradiction is a sine qua non in a commitment under that Regulation.- The Court therefore resolve to direct that the remainder of the sentence, so far as regards the imprisonment be remitted.-

Ordered that extract of these proceedings be transmitted to the Second Judge of the Provincial Court of Circuit in the Western Division for his information and guidance.-

Precept returnable without delay.-

(Sent following Precept No 256)

Read letter dated the 30th of April last from the Provincial Court of Circuit in the Northern Division submitting the Reports prescribed by Section XXXV Regulation X of 1816

16th July 1829.

from the Criminal and Joint Criminal Judges in the Division for the Month of March last.—

(Here enter No 267)

Nellore. The Judges having remarked that the prisoners in Case No 1 of the Report No 5, charged with having allowed to escape from their custody a prisoner accused of Murder, have been released by the Criminal Judge of Nellore on the grounds that "the Court had no authority to punish them" direct that his attention be called to the late Circular Order explaining that guards having charge of prisoners who may escape from their custody, whether before or after conviction, are by Clause first Section VII Regulation I of 1810, liable under the provisions of Section XXIII Regulation VIII of 1802, for wilful neglect to dismissal, and for connivance or further criminality to trial before the Court of Circuit.—

dated 13th July 1824.

Ordered that extract from these Proceedings be forwarded to the Provincial Court of Circuit in the Northern Division desiring them to furnish the Criminal Judge of Nellore with an extract from the Proceedings of this Court for his information and

F. 11.
16th July 1829.

and future guidance—

(Sent following letter No 257)

Read letter dated 26th ultimo, from the Provincial Court of Circuit in the Centre Division submitting the Reports prescribed by Section XXXV Regulation X of 816 from the several Criminal and Joint Criminal Judges in the Division for the Month of May last.—

(Here enter No 395)

Chittoor. The Court having observed that the prisoners in case No 81 of the Report No 5, charged "with having at "noon when engaged in firing the "Guns by order of the Jaghcerdar of "Annulcondah (in honour of the celebration "of a Mahomedan feast) occasioned "the death of a boy named Bupan Mahomed "in consequence of the wadding having "set fire to and exploded a heap of powder "placed at some distance from the Gun"— have been released by the Criminal Judge on the grounds "that the case "was divested of every feature characteristic of Manslaughter (legally considered)" desire that the Provincial Court of Circuit in the Centre Division will intimate to this Officer, that all Criminal charges not punishable by the inferior tribunals, must be brought before the Court of Circuit

16th July 1829.

Circuit, if sufficient proof of the crime charged be adduced to warrant the commitment of the party; and on reference to the provisions of Clause second Section XV Regulation VII of 1802 and Clause fourth Section IV Regulation I of 1818, it will be seen, that a special mode of proceeding is prescribed to the Courts of Circuit, in cases of Accessaries to Homicide.—

Under the provisions of Section XI Regulation X of 1816 the accused party should have been admitted to Bail, and the case committed to be disposed of by the higher Court.—

Ordered that Extract from these Proceedings be forwarded to the Provincial Court of Circuit in the Centre Division desiring them to furnish the Criminal Judge of Chittoor with a copy of the same for his information and future guidance.—

(Sent following letter No 258.

Read letter dated the 2nd Instant from the First Judge of the Provincial Court of Circuit in the Centre Division, reporting that the opening of the 2nd Sessions for this year has been postponed to the 20th instant in consequence of the Mahurrum festival; that he intends quitting his station on the 10th instant for Madras, but that instructions have been given to the Court

16th July 1829.

Court establishment to reach Cuddapah on the settled day.—

(Here enter No 403.)

Read further return dated the 2nd Instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept of the 18th May last and forwarding the explanations called for from the Criminal Judges of Guntoor and Nellore.—

(Here enter No 417.)

Read letter dated the 6th Instant from the Provincial Court of Circuit in the Western Division, with reference to the 2nd Para of their letter of the 29th ultimo forwarding copy of a return received from the Joint Magistrate of Canara: and with reference to the 2nd Para of the extract from the proceedings of the Sudder Adalut under date 15th ultimo forwarding copy of a letter received from the Criminal Judge of Canara.—

(Here enter No 430.)

Read return dated the 6th Instant from the First Judge on Circuit in the Western Division to precept dated 15th ultimo directing the transmission of Case No 1 Canara

Calendar

Calendar for Sessions 1829.-

(Here enter No 432)

Read letter, dated the 6th Instant from the Second Judge of the Court of Circuit in the Western Division, explaining his reasons for detaining the 4th Prisoners in Case No 9 Fourth Quarter Sessions of 1828 as called for in an extract from the Proceedings of the Tuijdaree Adalut under date 25th ultimo.-

(Here enter No 433)

Read return, dated the 7th Instant from the First Judge on Circuit in the Western Division, to precept dated 15th ultimo commanding the 1st Judge to send up the records in cases Nos 18, 20, and 27 of the Malabar Calendar and No 2 of the additional Calendar 1st Sessions 1829.-

(Here enter No 434)

Read letter dated the 11th Instant from the Second Judge on Circuit in the Northern Division, reporting his intention to proceed to Nellore on the 13th of this month.-

(Here enter No 446.)

20th July 1829.

F. H.

At a Court of the Tuijdaree Adalut.-

Present,

Monday, 20th July, 1829.

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

Read the following reports from the respective Judges of Circuit, on the delivery of the several Jails therein mentioned.-

Southern Division.

From the first Judge in the Southern Division on the first Sessions of 1828.-

(Here enter No 355)

From the third Judge in the Southern Division on the second Sessions of 1828.-

(Here enter No 428)

1. The first of these reports refers principally to the state of the respective jails in the Southern Division on which it seems unnecessary to add to the detailed remarks of the late first Judge.-

2. With reference to the observations in para 8, however, it is resolved to direct the Provincial Court in the Southern Division to call on the Magistrate of Trichinopoly to report the terms on which the jail at that station is rented, and whether the land-lord is responsible for repairs.-

3. As connected with para 20

of

of the same report, it is directed that the Provincial Court for the Southern Division do compare the allowance of rice granted to the prisoners at Madura, with that in use at the other jails of the division; and if they deem it insufficient, that they cause it to be increased- Three quarters of a seer, or as far as one seer of rice, is sometimes given at other jails- At Combaconum and Trichinopoly however, the Court understand that the allowance is usually issued in money,- but, unless local circumstances vary, and the food of the common people is different in the several provinces, it is desirable to assimilate the quantity granted to the prisoners in jail, as much as possible. The Provincial Court will consider whether throughout the Division it may not be preferable to issue grain, instead of money to the prisoners.-

4 The late first Judge also brings under the notice of this Court the bad state of the jail at Combaconum. In reference to the attempt made to break jail at this station in 1827 to the letter from the Provincial Court in the Southern Division of the 2nd November 1827, as well as to the report of the 3d Judge

of the 26th December last, that the alterations proposed would be immediately "commenced," it is resolved to call on the Criminal Judge of Combaconum, through the Provincial Court, in the Southern Division, to submit a report on the progress which has been made in this work.-

5. Mr Woodcock commences his report by noticing the numerous unfounded accusations of serious crimes, more especially in the provinces of Madura and Tinnevelly.- To this subject the Judges will have occasion to recur in a separate communication to the Government.

6. He subsequently remarks on the increase of gang-robbery by open violence in the Tanjore district and on the apathy of the inhabitants in complaining of such offences.-

7. The Judges have reason to believe that the system of police in the Tanjore district is radically defective- Since the abolition of the Tannah system the village establishments have never yet been placed on a proper footing- On reference to page 512 to 528 of the 2d Volume of the Selection of India papers, it will be perceived that the late Sir T. Munro recorded his opinion that, notwithstanding

notwithstanding the mere nomination
of patails in 87 the village system of po-
lice has as far as ever from being estab-
in Tanjore the Commission of which has
a Member proposed to augment it's efficie
in that province by transferring the heads
of villages from the police or lands to
and by placing them on the same foot
as to allowances as those in Coimbatore
But though this measure was desired
by the Government to be carried into
the Judges understand that the other
affairs of that province have not yet
allowed the requisite arrangements to
be made- that the Commissioner will soon
to propose an authority independently of
the patails- and that the Salaries or
village watchmen (each upon whom three
believes more as the servants of individua
Mesrs pistars, than of the public- their
allowances not being sufficient to keep
independent, nor secured to them by
the public authorities.-

8 The Judges beg leave to
recommend to the Right Honorable
the Governor in Council that this defi-
ject be brought by the Government
to the special notice of the Magistrate
and that he be instructed to prepare
and submit through the Board of Revenue

a plan for matching the village police, by
placing the office of Potail-Curnum-and
Talian as much as possible, on the footing
of similar offices in the Coimbatore country-

9. Adverting to para 7 of Mr
Woodcock's report, the Judges observe that,
on visiting the jails, the Judge on Circuit
should call separately before him the
prisoners held to security and confined
for default in giving it,- and that on any
of them verbally stating their desire
to petition, the Criminal Judge should
be instructed to furnish a proper person
to draw out their statement in writing,
without which the present law prevents
the Circuit Judge from interfering.- Ordered
that the same be communicated for the
information and guidance of the four
Provincial Courts.-

10. Resolved that copy of para 8
of Mr Woodcock's report be forwarded by
the Provincial Court to the Magistrate of
Trichinopoly, and that he be informed of the
opinion of this Court, that persons convicted
by him should be confined in the jail of
Trichinopoly under his charge, and need not
be forwarded to Combaconum.-

11. The Judges remark with great
regret the continued unhealthiness of the Salem
Jail, in which 45 cases of mortality have
occurred since the previous sessions- The
Provincial Court will be pleased to call
on the Medical officer of that jail for a special
report

report on its past and present state.-

12 In reference to para 13 of Mr. Woodcock's report, the Judges remark that according to the present law, it is not necessary that charges dismissed by the native police should appear on the Calendar of the Magistracy. But if a complaint is preferred to the European Magistracy against their subordinate native police for the improper dismissal of a criminal charge, the same should invariably appear on the Calendars of the Magistracy, who in no case can omit recording every charge against their native agency. Ordered that the same be communicated to the several Provincial Courts for the guidance of the Magistrates in their respective divisions.-

13 As the reports from 5 to 9 inclusive in the Appendix to Regulation X 1810 are now transmitted monthly to the Courts of Circuit collectively, who issue orders thereon before forwarding them to this Court, the Judges concur in opinion with Mr Woodcock that the Calendars to be forwarded to the Judge in Circuit, under Section XXIII Regulation X 1810 and Section VI Regulation VI 1822 need no longer be prepared in English, but merely in the native language of the district, reserving to the Judge on Circuit the power of calling for a translation of any part of the same. Ordered that a

communication to this effect be made to the 4 Provincial Courts, for the guidance of the Criminal Courts in their respective divisions.-

14 Mr Woodcock's report closes by allusion to the lamentable prevalence of perjury in the Southern Districts. The Judges have recently recommended to the Government a new enactment to facilitate bringing to trial certain classes of persons accused of this offence. The law can only check this insidious crime when those guilty of it are brought to trial.- and it is too deeply rooted in the loose habits of the people, to be effectually eradicated, except by the gradual improvement of their moral character.-

Northern Division.-

15 From the Second Judge in the Northern Division on the half yearly first Sessions of 1828 and on the 4th quarterly Sessions of that year.- (Here enter No 61)

From the late first Judge in the Northern Division on the 3d quarterly Session of that year. (Here enter No 6)

From the 2d Judge in the Northern Division on the second half yearly Sessions of 1828. (Here enter No 90)

From Ds Ds in reply to this Court's precept calling for certain explanations.- (Here enter No 202)

report on its past and present state.-

12 In reference to para 13 of Mr. Woodcock's report, the Judges remark that according to the present law, it is not necessary that charges dismissed by the native police should appear on the Calendars of the Magistracy. But if a complaint is preferred to the European Magistracy against their subordinate native police for the improper dismissal of a criminal charge, the same should invariably appear on the Calendars of the Magistracy, who in no case can omit recording every charge against their native agency. Ordered that the same be communicated to the several Provincial Courts for the guidance of the Magistrates in their respective divisions.-

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communication to this effect be made to the 4 Provincial Courts, for the guidance of the Criminal Courts in their respective divisions.-

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Northern Division -

15 From the Second Judge in the Northern Division on the half yearly first Sessions of 1828 and on the 4th quarterly Sessions of that year. (Here enter No 81)

From the late first Judge in the Northern Division on the 3d quarterly Session of that year. (Here enter No 0)

From the 3d Judge in the Northern Division on the second half yearly Sessions of 1828. (Here enter No 90)

From Ds Ds in reply to this Court's precept calling for certain explanations.- (Here enter No 202)

The

20th July 1829.

16. The orders addressed by this Court on the 7th January last, to the Criminal Judge at Nellore and Rajahmundry and to the Joint Criminal Judge at Masulipatam contained the instructions necessary upon the 2d and 3d paras of Mr Tod's report - and it is accordingly resolved to submit copies of the same to Government, with extract from this Court's proceedings of the 18th February, calling on Mr Mackey for certain explanations which he has furnished, on the whole, to the satisfaction of the Court.-

17. The only remaining subject in these reports from the Judges on Circuit in the Northern Division requiring notice from this Court, is the statement made by Mr Tod of the increase of "perjury in "support of false and malicious charges" and the implication therein of the heads of native police, whom in the Northern Division he states to be detested by the people, to "instigate robberies, share "largely in the plunder, and then to send "up to the Criminal Court, as the actual per- "petrators some innocent persons whom "they dislike, with confessions purporting "to have been voluntarily made." The Judge on Circuit attributes this to their being ill paid, and to their situations not being "well secured to them against malice "prejudice and caprice."-

18. The Judges, as before noticed, propose

20th July, 1829

propose to address the Government separately on the subject of a legislative enactment against false and malicious charges, promised in the concluding para of their Register's letter under date the 27th February 1827 - Meantime, they observe that from the nature of the revenue system prevalent in the Northern Circars, the heads of police there are not perhaps either so respectably paid, or so efficiently controlled, by the revenue Collectors, as in other districts since the enactment of Regulation VII. 1822, sufficient measures have not perhaps been taken to ensure to our native police and reserve agency, the stability of their situations - from want of due control in this respect the heads of police come to consider themselves the precarious stipendiary of the local authority, rather than the servant of the public, they must naturally become prone to corruption - and liable to deterioration in their functions, especially if their pay is inadequate, and the prevalent revenue management exempts them from local supervision - But the Judges hope that the impression made by a few cases has led Mr Tod to consider the extent of the evil greater than it really is. Notwithstanding, it deserves serious consideration from Government, - who may perhaps deem

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deem it proper to address the Local authorities on this subject.-

Centre Division.

From the 2nd Judge in the Centre Division on the half yearly second Sessions of 1828.-

(Here enter No 81)

19. In Mr Cahe's report, notice is taken of a disgraceful outrage, in which articles to the value of Rupees 37,165. were carried away, apparently in open day, in the large and populous town of Cuddalore, from an individual, the whole of whose property has been destroyed or removed in consequence of a cast dispute.- Mr Cahe considers the Circuit blameable on this occasion, and adds it was with deep concern that I observed "from the papers submitted to the Court of "Circuit that several European pensioners "stationed at Cuddalore were concerned "in the robbery, and that the Magistrate "had omitted to take the necessary measures "for putting them on their trials."-

20. The Judges conclude that the Government will call upon the Magistrate to account for so disgraceful an outrage having occurred, at a station where, in case of need, ample force was at hand, and might have been promptly called out to repress open violence. If the native police are to blame, it is apprehended that serious notice should be taken

25th July 1829. taken of their flagrant supineness, and measures will no doubt be adopted by the Government, to bring to justice and trial before His Majesty's Supreme Court, such of the European pensioners as may have been implicated in this serious offence.-

Western Division.

From the Second Judge in the Western Division on the half yearly first Sessions of 1828.-

(Here enter No 453)

From do do on the 4th quarterly Sessions of 1828

(Here enter No 137)

From the Third Judge in the Western Division on the half yearly second Sessions of 1828.-

(Here enter No 12)

21. In the first report from Mr Vaughan it is proposed that the Magistrate should "make an half yearly, or annual "report, on the state of the police to the Court "of Circuit, or Judges on Circuit, to be by "them transmitted to the Court of Sudder "Adawlut," as more likely "to illustrate "the real state of a province in a police "point of view, than volumes of inferences "drawn from calendars and cases."-

para 42.

22. The Calendars submitted to the Judges on Circuit, and the cases tried by them, afford those officers an opportunity of drawing inferences, and making suggestions, on the state of crime detected by

25th July 1829.

deem it proper to address the Local authorities on this subject.-

Centre Division.

From the 2nd Judge in the Centre Division on the half yearly second Sessions of 1828.-

(Here enter No 21)

19. In Mr. Oakes's report, notice is taken of a disgraceful outrage, in which articles to the value of Rupees 57,463, were carried away, apparently in open day, in the large and populous town of Cuddalore, from an individual, the whole of whose property has been destroyed or removed in consequence of a cast dispute. Mr. Oakes considers the actual blameable on this occasion, and adds "it was with deep concern that I observed "from the papers submitted to the Court of "Circuit that several European pensioners "stationed at Cuddalore were concerned "in the robbery, and that the Magistrate "had omitted to take the necessary measures "for putting them on their trials."-

20. The Judges conclude that the Government will call upon the Magistrate to account for so disgraceful an outrage having occurred, at a station where, in case of need, ample force was at hand, and might have been promptly called out to repress open violence. If the native police are to blame, it is appre-hended that serious notice should be taken

25th July 1829.

taken of their flagrant supineness, and measures will no doubt be adopted by the Government, to bring to justice and trial before His Majesty's Supreme Court, such of the European pensioners as may have been implicated in this serious offence.-

Western Division.

From the Second Judge in the Western Division, on the half yearly first Sessions of 1828.-

(Here enter No 453)

From do do on the 4th quarterly Sessions of 1828

(Here enter No 137)

From the Third Judge in the Western Division on the half yearly second Sessions of 1828.-

(Here enter No 12)

21. In the first report from Mr. Vaughan it is proposed that the Magistrate should "make an half yearly, or annual "report, on the state of the police to the Court "of Circuit, or Judges on Circuit, to be by them transmitted to the Court of Vaujdary "Adawlut," as more likely "to illustrate "the real state of a province in a police "point of view, than volumes of inferences "drawn from calendars and cases."-

para 42.

22. The Calendars submitted to the Judges on Circuit, and the cases tried by them, afford those officers an opportunity of drawing inferences, and making suggestions, on the state of crime detected by

deem it proper to address the Local authorities on this subject.-

Centre Division.

From the 2nd Judge in the Centre Division on the half yearly second Sessions of 1828.-

(Here enter No 451)

19. In Mr Baker's report, notice is taken of a disgraceful outrage, in which articles to the value of Rupees 37,165. were carried away, apparently on one day, in the large and populous town of Cuddalore, from an individual, the whole of whose property has been destroyed or removed in consequence of a cast dispute. Mr Baker considers the Cutwal blameable on this occasion, and adds "it was with deep concern that I observed "from the papers submitted to the Court of "Circuit that several European pensioners "stationed at Cuddalore were concerned "in the robbery, and that the Magistrate "had omitted to take the necessary measures "for putting them on their trials."-

20. The Judges conclude that the Government will call upon the Magistrate to account for so disgraceful an outrage having occurred, at a station where, in case of need, ample force was at hand, and might have been promptly called out to repress open violence. If the native police are to blame, it is apprehended that serious notice should be

taken of their flagrant supineness, and measures will no doubt be adopted by the Government, to bring to justice and trial before His Majesty's Supreme Court, such of the European pensioners as may have been implicated in this serious offence.-

Western Division.

From the Second Judge in the Western Division, on the half yearly first Sessions of 1828.-

(Here enter No 453)

From do do on the 4th quarterly Sessions of 1828

(Here enter No 137)

From the Third Judge in the Western Division on the half yearly second Sessions of 1828.-

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21. In the first report from Mr Vaughan it is proposed that the Magistrate should "make an half yearly, or annual "report, on the state of the police to the Court "of Circuit, or Judges on Circuit, to be by them transmitted to the Court of Sudder Adawlut," as more likely "to illustrate "the real state of a province in a police "point of view, than volumes of inference "drawn from calendars and cases."-

para 42.

22. The Calendars submitted to the Judges on Circuit, and the cases tried by them, afford those officers an opportunity of drawing inferences, and making suggestions, on the state of crime detected by

by the police, which are occasionally valuable and important. But they possess no information on the most important branch of crime, which altogether escapes detection. It is to the Magistracy, whose superintending situation, local knowledge, and more slow and less extensive movement through each district gives them superior opportunities of collecting correct information, and affording the people free access to prefer complaint, that the Government must look for knowledge on this, the most important department of all police. It appears to the Judges that in submitting on the 31st December of each calendar year the second half yearly statement of crimes committed, the several Magistrates might with great public advantage, accompany it by a full report from themselves and their subordinates, on the state of the police in their respective districts, having special reference to those crimes, the perpetrators of which have altogether escaped detection. These reports being forwarded to the Provincial Courts would come before the Judges at their, with such remarks as the experience and contrast of the Byghen Courts would no doubt enable them to add to the information of the executive officers and the whole might then be submitted to the Government in a concentrated

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form. This suggestion is accordingly recommended to the consideration of the Right Honorable the Governor in Council.

23. Mr Vaughan in his first report (para 45,) and Mr Shakespear in his letter (para 15,) offer opposite opinions on the subject of the large knife peculiar to Malabar, usually carried by most of the natives of the province unsheathed, supposed to facilitate wounding and murder. Both gentlemen were originally desirous that this privilege should be placed under restriction. But Mr Vaughan, after nearly 23 years active service in Malabar, records his recantation of his former opinion, and his concurrence in that of the late Sir T. Munro, that time and increased civilization will gradually cure this evil. It is satisfactory to learn from an officer of Mr Vaughan's great experience and local knowledge that the present is a period not of "comparative but real peace and tranquillity" in this province, and that the custom in question is not attended by so many instances of affray as formerly. But on the 28th October 1819. 6th November 1821. 24th March 1825 and 3d April last this Court brought to the notice of the Government successive recommendations from other able local officers in favour of the abridgement

of this privilege, - and if not opposed by considerations of state policy, they are inclined to think that it might be gradually placed under some restriction. At the same time it is evident that the frequency of such crimes in Malabar may be traced rather to the dense population, and to the general habits and character of the people, than to the peculiar form of their weapons, or the custom of wearing them upon their persons.

24. In reference to former discussions respecting slavery in Malabar, Mr. Vaughan suggests "a census and village registry of "slaves." It seems desirable that every attempt should be made to ameliorate the condition of this unfortunate race of people on the Western Coast, - provided private rights are not infringed, and property as it now exists remains undisturbed. The Judges respectfully suggest for the consideration of the Government whether with this view the future progeny of the slaves in Malabar might not be emancipated from the villainage in which their less fortunate parents are involved. By conferring on them the selling of a free market for their labour, the Government would give a new incitement to their exertions and promote industry, whilst it would gradually

gradually raise to the situation of their fellow-men a numerous and degraded class of their subjects. -

25. Local circumstances, such as the demand for servants amongst Europeans at the Presidency, dependence on a community rather than on an individual, no forcible separation from the land they till, and liberal revenue arrangements, which have encreased the receipts of the Parian and Pullers of the Tamil country so as gradually to raise them into independence, have greatly improved the condition of this class of people on the Coromandel Coast, where the exposed person of the female labourer, in the Tanjore and Tinnevelly districts, is now nearly the only remaining distinction between the slave and the free. But in Malabar where the slave is often sold separately from the land, civilization is checked by the infraction of those feelings, the cultivation of which principally tends to raise human nature. Be it dragged from the field which he was accustomed to till - from all the connexions of blood and affection - and his diminutive size, stinted growth, and squalid appearance present the picture of the degraded being which he feels he

he is. Mr Vaughan mentions an instance of a dispute respecting one of these slaves, in which the claimant who seized him, confined him "in a room without light, "or air, with an Elephants chain fixed to "his legs."-

26. Though the law, as has been fully explained to the local officers, already sufficiently protects the slave from such oppression, the Judges are of opinion that the wretched condition of this class in Malabar renders it desirable to adopt the suggestion now submitted, in which case a census and registry as proposed by Mr Vaughan would distinguish the slave from the free - and it might also be made the duty of the local officers to discourage as far as possible the removal of the slave from the land he usually tills, or from his relations by blood, and connexions by marriage.-

27 In reference to para 48 of Mr Vaughan's first report, respecting the defective state of the jail at Calicut, the Judges recommend to Government that the Superintending Engineer be directed, in communication with the Criminal Judge, to report on the expediency of building a new Jail, or of improving the present one so as to remedy the defects complained of - It would appear that, in the event of a new jail being built, the materials and ground belonging to the present one would go a great way to cover the expense of it.-

28. The Judges beg leave to recommend to the attention of the Right Honorable the Governor in Council the Statement made in para 62 of Mr Vaughan's first report, respecting the expediency of better providing for the administration of justice at Cochin

29. The caution which should be used in offering rewards for conviction, and in admitting uncorraborated confession is strongly exemplified by the case mentioned in para 81 of Mr Vaughan's first report in which hope of reward upon conviction, induced the police to inveigle 4 ignorant illiterate creatures into signing confessions of a murder, of which they were entirely ignorant.-

30. The case noticed in paras 82 and 83 of a native obtaining a civil decree against another, without the defendants knowledge of such a claim, renders it, in the opinion of the Judges Court, desirable to modify the provisions of Section XIX Regulation VI 1810 under which a plaintiff is enabled to sue the civil process in his own cause.-

Ordered that the Provincial Court

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Court for the Western Division be instructed to forward, for the information of the Magistrate in Canara, copy of para 84 of Mr. Vaughans 1st report, and that the present Magistrate be required to attend strictly to the former orders of this Court, on the subjects therein alluded to, with the view of amending the defects in the administration of his predecessor which have been pointed out.-

32. With reference to para 85th it is resolved to direct the joint Criminal Judge at Canara to forward to Mangalore all convicts upon whom sentence has been passed, until new arrangements can be made for the imprisonment of the Jail at Canara.- Ordered that the same be communicated to the Criminal Judge and Joint Criminal Judge of Canara respectively, for their guidance.-

33. Both Mr. Vaughan and Mr. Shakespear notice with disapprobation the system of severe punishment for trivial offences which appears to have pervaded the department of the Canara Magistracy. The Judges direct that the Provincial Court do call the special attention of the present Magistrate to this defect in the management of his predecessor: and that he be instructed to attend to the

proceedings of his subordinates in this respect.-

34. In his second report on the quarterly Sessions, Mr. Vaughan notices the beneficial effects of a recent execution, which took place in North Malabar, where murder had been frequent- and the perpetrators of that crime, until the establishment of the Auxiliary Court, had been executed at the distant station of Calicut.- The Judges are sensible of the advantages attending the execution of criminals condemned to suffer capital punishment taking place in the vicinity of the place where the crime is committed, and will keep the same in view where any beneficial consequences are likely to result from it.-

35. The Judges, with reference to para 29 of Mr. Vaughans report, recommend that, if the orders of Government therein mentioned have not been circulated to the Military authorities, they be communicated to them, and if they should have been circulated that the attention of the Military at Cannanore be specially called to the same.-

Ordered that such part of

36.

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of the foregoing proceedings as regards the several Provincial Courts be forwarded to each respectively for their guidance, and for the information of the respective Judges late on Circuit.—

37. The only circuit reports now due, previously to those for the current year 1829, are those from the First Judge in the Western Division, on the first half yearly Sessions of 1824, second half yearly Sessions of 1826, and first and third quarterly Sessions of 1828, when he was employed in the Centre Division called for by this Court's orders of the 10th November 1824, 2nd July 1825, 12th January and 22d November 1827 and promised in his return of the 5th December 1827; all which papers it is resolved to submit for the information of the Government.—

Ordered that the Circuit reports alluded to in these proceedings, with extract therefrom, be forwarded for the consideration of the Right Honorable the Governor in Council.—

Ans.d 27th Oct. № 648 (Sent following letter № 265)
S. Ord. № 33

Read letter from the 1st Judge on Circuit in the Western Division, submitting whether, under the provisions of Regulation II 1822, as modified by Regulation VI 1827, the Criminal Court, in cases not punishable by it, but by the Higher Courts exclusively, is

F. H.
20th July 1829.

is competent, on failure of full proof of a specific offence, to hold the prisoner to security on the ground of strong suspicion of his guilt, or whether such security is demandable only by the higher Court, which has cognizance of the crime charged.—

(See enter № 283)

Clause first Section IV Regulation II 1832 provides that "in all cases brought before a Criminal Judge" he can exercise the power in question—and the Judge thinks that he is competent to exercise it in cases of every description, whether the original charge involves a crime punishable by himself, or only by the Higher Tribunals.— It would be less contrary to the Regulations, than distressing to the suspected, were such persons refused the option of release on security, and incarcerated until the arrival of the Judge on Circuit.—

2. But a prisoner should never be committed for trial unless there are reasonable grounds to believe that the evidence forthcoming will be found sufficient for his conviction. A committal on insufficient evidence has the most mischievous public consequences. A criminal put thus on his trial is necessarily acquitted, and though the clearest evidence may afterwards

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afterwards be found against him he cannot be tried again. When the evidence is not sufficient for conviction, but ought to raise strong suspicion only of the guilt of the accused, the proper course for the committing officer to pursue is to hold him to security and to take the necessary steps for procuring additional evidence, which, if it is procurable at all, will generally be found within the year. If it is not found within that time, it may afterwards be procurable, and then the accused may be again taken up.

3. When the Police Officers send up a case with defective evidence, the Criminal Judges should never omit to stimulate them, through the Magistracy, to further exertions. It is apprehended that from want of direct communication with the Native Police, or from the apparent hopelessness of the attempt, this is too frequently omitted, but the Police Officers should be made to feel by experience that they save themselves no trouble by a negligent investigation of any case in the first instance, and the Criminal and Circuit Courts must take blame to themselves for many improper acquittals, if they do not imitate Mr. Newnham's excellent example, of deferring the trial, until every possible

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evidence is forthcoming.

4. Mr. Newnham however appears to confound the "strong suspicion" which authorizes the requisition of security with the "strong presumptive proof" (Zunn-i-ghalib) which authorizes a conviction of the crime charged, though not the infliction of the prescribed penalty under the Mohummudan Law. But if there is evidence to raise "strong presumption" the prisoner ought undoubtedly to be committed for trial. The evidence which raises "strong suspicion" only is much inferior to that which warrants "strong presumption". A conviction on strong presumption has often been erroneously understood to amount to nothing more than suspicion, strong indeed, but still mere suspicion; whereas in fact it is a full legal conviction of the offence, but the infliction of the prescribed punishment is barred, because the conviction is not grounded on the positive testimony of two competent eye-witnesses of ascertained or apparent credit, which the Mooslemman Law peremptorily requires to warrant a sentence of Kudd or Kisas.

The

5.

The "strong suspicion" warranting the requisition of security must arise from a consideration of the facts disclosed according to English principles of appreciating evidence, and not according to the view which a Mussulman Lawyer would take of it. Security should not be required on slight grounds, but if a sound discretion is exercised in this respect, the Judges do not think that injustice can follow to the accused, although he has not an opportunity, in such case of examining witnesses on his behalf, for all prisoners committed in default of giving security can by petition bring their cases under the consideration of the Judge on Circuit, and if under clause third Section IV Regulation II 1822, as modified by clause third Section VIII Regulation VII 1827, he is of opinion that the prisoner ought to be released or brought to trial for the specific offence, instead of being held to security, the Judges are of opinion that the Circuit Judge is competent to "pass such order as may appear just and proper," according to the construction given to those laws, in the 17th para of their proceedings of the 23rd October 1827, to which they refer Mr. Newnham, the same having been communicated to the Western Court.

F. U.
20th July, 1829.

Ordered that extract from these proceedings be furnished to the four Provincial Courts of Circuit for the information and guidance of the inferior tribunals, as explaining the Regulations respecting the crimes for which the Criminal Courts can demand security, the course of proceeding to be observed by them in such cases, and the power of the Higher Court to over-rule their proceedings.

Sent following letters No.

Ordered also that extract from these proceedings be sent to the Judicial Secretary to Government agreeably to orders of Government dated the 19th October 1824.

Sent following letter No. 264

Dft
Gov. No 32
20 U

deferring the trial, ---- on the evidence

At a Court of the Foujdarry Adaulut,

Present,

Thursday 23d July 1829 } F. A. Grant Esquire, - - -
James Cochrane Esquire, - - } Judges
William Oliver Esquire,

24
20 6

Read the following letters from the Provincial Courts for the 4 Divisions under this Presidency.-

(Here enter Nos 142-161-166-167-855 of 1827)

1. The Government, on the 24th May 1825, in consequence of a representation from the Magistrate in Tinnevelly, on the recommendation of this Court, directed a Regulation to be framed for the punishment of false and malicious charges of a heinous nature preferred before the Native officers of police. But, as reported to Government on the 27th February 1827, this Court, entertaining doubts both with regard to the punishment by which the offence should be visited - and the tribunal by which it should be made cognizable, resolved, in the first instance, to call upon the several Magistrates, Criminal Judges, and Judges of Circuit, to suggest such provisions on this subject as appeared to them respectively most effective, and least liable to abuse.-

2. The heavy pressure of other duties has hitherto prevented the Judges from resuming the consideration of this important Subject.- But, having now disposed of the arrears of business which had accumulated, they proceed to record their sentiments on the reports, which have no consequence

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consequence been received from the several Courts of Circuit.-

3.

These communications speak decidedly to the general prevalence of the la= =mentable offence in question. It appears particularly frequent in the province of Tin= =nevelly, whence the first representation originated.- In that district during the years 1824, 1825, and 1826 no less than 63 accu= =sations of robbery were dismissed as false, and only 9 forwarded to the Criminal Court; and of violent affrays, no less than 58 were dis= =missed as unfounded, and only 15 forwarded for investigation; even of the accusations of murder, though 22 were forwarded to the Court, no less than 15 were dismissed as false.- and the late Magistrate, in his return, enters into many other details, indicative of false accusations being habitually resorted to in this district, and specifies one case in which 149 persons, or the whole ryots of a Village were indiscriminately accused by name.- The experience of two of the Judges of this Court, whilst employed in that division as Judges of Circuit, leaves them no room to doubt that the offence in question, as stated in the returns under consideration, is equally com= =mon in the neighbouring provinces of Tanjore and Trichinopoly; and though not so preva= =lent in the districts of Salem and Coimbatore, it is even there far from unfrequent.- In the Northern Division, the Magistracy do not consider the evil so general.- But the Circuit Court there shew that this arises from the more serious crimes being sent direct to the higher tribunals, and coming little under the immediate notice of the Magistracy, who, from the nature of the revenue management and the description of native officers under them in the

23rd July 1829.

the Northern Circars, may not possess the same control over the police that exists in other districts.- Nellore is honorably distinguished by the rarity of this offence, as are the Central Provinces generally, where it is observable that real crimes are of the most frequent occurrence, but false accusations are common in the Chingleput district, in the immediate vicinity of the Presidency. On the Western Coast of the peninsula, this evil is stated to be very predominant.- The Magistrate in Malabar specifies 98 cases in 1824-1825 and 1826 in which no less than 338 persons were falsely and maliciously accused, including 10 cases of alleged murder, in one of which the accu= =sed produced, alive and unhurt, the per= =son said to have been killed.-

4.

Whilst the general prevalence of the offence in question induces the Judges to adhere to their former opinion that a new enactment is called for, to check so general and dangerous an evil, they are inclined to give great weight to the appre= =hensions expressed by some of the most experienced judicial officers, including the first Judge in the Southern, and the second Judge in the Northern Division, of the danger of repressing just complaints, and unnecessarily alarming ignorant proceed= =tors, already little inclined to stand for= =ward in aid of public justice, by any severe penalties against false and malicious accusations.-

5.

The English law, as noticed by the first Judge in the Southern Divisi= besides leaving to the offended party the option of prosecuting the perpetrators of this crime, for damages or defamation in the Civil Court, limits their punishment as public offenders, before the Criminal

tribunals

13th July 1829.

tribunals, to the penalties inflicted on per=
=jury or conspiracy;- and even where, by
prejudice conspiracy, a judicial murder
was actually perpetrated, though the penalty
of death was incurred by the perpetrators
of this horrid crime, the English law, from
prudential motives, shrunk from retaliation
on the guilty.-

6. It was perhaps experience of
the bad effect of severe punishment, in simi=
=lar cases, which induced a foreign state
recently to modify the penalties inflicted
by the Code Napoleon on similar offences,
under the denomination of calomnie; and
to restrict the punishment to fine not
exceeding 3000 francs, or imprisonment not
exceeding one year.-

7. The Mahommedan law, as ex=
=plained in the cases of Mahdeo Roomee
/page 244/ and Puhlwan /page 288/ in the
first volume of the Bengal Nizamut Re=
=ports, already sufficiently punished, by
discretionary punishment, either a conspi=
=racy in consequence of a false charge
upon oath, or even such false charge itself,
though retracted before injury ensues,
but it does not provide any punishment
for a false and malicious accusation,
of even the most heinous offence, not given
upon oath, especially when made before
the Native heads of Police.-

8. It seems expedient therefore
to provide, by moderate penalties, for the
punishment of this crime.- But, before
entering into consideration of the penalties
to be inflicted on its commission, it seems
proper to consider the suggestions offered
for its prevention.-

9. The only proposition offered
with

F.6.

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with the view to check this crime before commission
is the administration to complainants of an oath
by the Native head of District Police - and in
regard to finding the increasing the solemnity of
such oath, by requiring it to be taken in the
temple itself, before the shrine of the idol, or
diminishing its solemnity by requiring only the
subscription of a declaration similar to that
contained in Section VII Regulation III. 1802.-

10. Nothing can be more prejudicial
to the general morals of the people, or tend more
to promote that very general disregard for
truth which it is the object in this instance to
check, than the unnecessary exaction of oaths,
which by diminishing that sacred regard
which ought ever to accompany a direct ap=
=peal to the divinity, may lower the respect
of the people for this tie upon their conscience
The Judges therefore concur in opinion with
most of the Lower Courts, that to authorize
the native heads of Talook Police to ad=
=minister oaths indiscriminately in all cases
to prosecutors, would be only to add perjury,
to the falsehood already too prevalent and a
similar considerations, as well as local objec=
=ons, are opposed to the administration of
oaths of increased solemnity, in the temple
itself. But as the village and district Mussing
=ffs are already empowered by law, in every
the smallest civil suits, to administer oath
to witnesses at their discretion, the Judges
of opinion that in accusations of heinous
criminal offences not bailable by law the truth
of Talook police alone, who in general are
rank fully as respectable as the District
Moonsiffs, might be empowered, in cases where
they entertain doubt as to the truth of a
charge, to caution the prosecutor as to the
penalties attending perjury; and, subject
thereto, to administer to him at their dis=
=cretion a solemn declaration similar to
that

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that contained in section VII Regulation III 1802. The awe which is often entertained by the Natives particularly by the Hindoos, for a declaration in this form, and the temporal as well as spiritual consequences they attach to the breach of it, would it is hoped check false charges; whilst they would induce as great tenderness on the part of the heads of police in requiring it, as on that of the village and district Moonsifs in the administration of oaths, which are seldom resorted to by them except in very particular cases; besides it seems only reasonable that the heads of Talook police should possess the same discretionary power of protecting the persons, as the Moonsifs of protecting the property, of the people, against false complaints.-

11. Allowing the powers vested in the Magistracy by section XXXV Regulation IX 1816 to continue as at present, the Judges are of opinion that all false accusations, for any bailable offence, exceeding those therein specified, if wilfully malicious, should be made cognizable by the Criminal Court, whose power of punishment for such offences should be limited to fine not exceeding 200 Rupees, and imprisonment not exceeding 12 months with or without hard labor in irons.-

In offences not bailable, all false accusations, if wilfully malicious, might be made cognizable by the Court of Circuit, who might be empowered, as in the case of conspiracy by Allahdeo Koormee and others in Bengal, to sentence the offenders to imprisonment with hard labor not exceeding seven years, and to 200 lashes with the cat-of-nine tails.-

In

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12. In cases of false and malicious accusation, where the prosecutor had subscribed the declaration alluded to in para 10, before the Native head of Police, or had sworn thereto before the Magistracy or Criminal Court, the last mentioned tribunal might also commit him for perjury or subornation thereof; and the Court of Circuit, on conviction could then inflict on him, the further disgraceful punishment which the law already attaches thereto trying him for the minor offence mentioned in para 11, only when he is acquitted of these higher crimes.-

13. In proposing these enactments the Judges have had in view the great and irreparable mischief which would ensue, were a charge known previously to the whole country to be true, from failure of proof, or want of discrimination on the part of the European Officer who tries it, to be too hastily pronounced false and malicious. The late first Judge in the Northern Division mentions an extra-ordinary case, of a false accusation by a father against his own son for murder - to which two successive subordinate European authorities added their whole weight, by erroneously accusing his witnesses, who recanted, of perjury; - and the present second Judge of the same Court adduces another case of perjury, tried by him in which "the prisoner at the bar was "the only man who had spoken truth in "the civil trial out of which the case arose "and the real perjurers were in the witness "box."-

14. When able and zealous subordinate European Officers are thus found mistaking falsehood for truth, and truth for falsehood it will be obvious that in intricate cases, such as those which false complaints for heinous crimes usually present, it is only a happy combination of

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of discriminative judgment, with intimate knowledge of the language and habitual experience of the character of the people, who can give that peculiar dexterity in unravelling involved and contradictory native testimony which is essential to the ends of justice in such cases. Accordingly, the Judges propose not to extend the authority of the Magistracy over such crimes, but by a circular order to require the Magistrates themselves to exercise it, and not to allow it to devolve on their less experienced assistants. The Criminal Court it is proposed to confine to cases of false accusation for bailable offences only, of which are rare, and to such only of that description as are more serious than those punishable by the Magistracy. and to the experience of the Circuit Court alone it is proposed to confide false accusations, for crimes not bailable.

15. The Judges accordingly direct that copies of the letters alluded to and extracts from these proceedings be laid before the Right Honorable the Governor in Council with the accompanying draft of

A Regulation, for the better prevention, and punishment, of false and wilfully malicious accusations of heinous crimes

Preamble. Whereas false and wilfully malicious accusations of heinous crimes are frequently preferred, particularly before the Native Police Officers not authorized to administer an oath, and it has become requisite to repress the same, by authorizing the Native heads of Talook police, in cases not bailable, at their discretion, to require complainants to attest the truth of their accusations, in a solemn manner, subject to the penalties for perjury; - and also to provide a specific punishment for all false and wilfully malicious accusations of

J. H.

23d July 1829.

of heinous crimes, whether so attested, or not. Wherefore the Right Honorable the Governor in Council has enacted this Regulation, to take effect from and after the date of its promulgation.

In charges for crimes not bailable, the head of Talook police may administer a solemn declaration to the complainant, subject to the penalties for perjury.

II In all charges preferred respecting Crimes not bailable, heads of Talook police are authorized, at their discretion, after cautioning the complainant as to the penalties for perjury, to administer to him, subject to the penalties for perjury, a solemn declaration according to the forms contained in Section VIII. Regulation III. 1802.-

False and malicious accusations of bailable crimes exceeding those cognizable by the Magistracy punishable by the Criminal Court by 200 Rupees fine, or one years imprisonment with or without hard labor.-

III Where complaints for any bailable offence, exceeding those referred to in Section XXXV Regulation IX 1810, shall be proved before the Criminal Court to be false and wilfully malicious, the said Court is hereby authorized to punish the Complainant by fine not exceeding 200 Rupees, or imprisonment with or without, hard labour, not exceeding twelve months.-

False and malicious accusations of crimes not bailable punishable by the Circuit Court with 7 years imprisonment and hard labor and 200 lashes

IV Where complaints for any offence not bailable may appear to the Criminal Court false and wilfully malicious, the said Court is hereby authorized to commit the Complainant for trial before the Court of Circuit; and the Court of Circuit, on conviction of the falsity and wilful malice of the complainant is hereby authorized to punish him, by imprisonment with hard labor not exceeding seven years, and lashes with a Cat of nine tails not exceeding

If the complainant has taken the declaration limited in Section II, or has been sworn, he may also be indicted for Perjury, or Subornation of it.-

exceeding 200.- Provided always that, if the said complainant has subscribed the solemn declaration provided for in Section II, or has sworn to the truth of his accusation before the Magistracy or the Criminal Court, nothing contained in this Section shall prevent his committal for the higher crime of perjury or subornation thereof,- but his conviction of these greater crimes shall exempt him, from trial for the minor offence herein provided for, on account of the same false accusation.-

At a Court of the Vizidarry Adalut.

Present,

Wednesday, 29th July, 1829.

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

Read letter dated the 4th instant, from the Provincial Court of Circuit in the Northern Division submitting the Report prescribed by Section XXXV Regulation of 1816 from the several Criminal and Joint Criminal Judges in the Division for the month of May last, together with the correspondence thereon.

(Vide enter No 44)

Chicacole

1. Referring to cases Nos 5, 6, 7 and 8 of the Supplemental Report the 1st prisoner, who appears to have been convicted of 4 distinct offences, should have received but one sentence upon the whole of the charges proved:- the Judges desire that this be brought to the notice of the Criminal Judge thro' the Provincial Court.

Masulipatam

2. With reference to the 8th Para of the letter addressed by the Provincial Court to the Joint Criminal Judge of Masulipatam, the Judges have remarked the irregularity of that Courts proceedings in directing the Joint Criminal Judge to

to obtain from the Magistrate information as to what notice he has taken of the irregularity on the part of the Police officer in referring to him for orders Case No 1 of the Report No 5.- By Para 5 of the orders of the Foujdaree Adawlut dated 13th September 1824 the duty of calling upon the Magistrate in cases in which he has admitted insufficient reasons for the detention of a prisoner by the Police is expressly assigned to the Provincial Court; and the Circular order dated the 5th November 1823 being cancelled by the subsequent ones of the 13th September 1824 there is no case in which it can be the duty of a Criminal Judge to communicate with the Magistrate on the subject.-

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Northern Division directing them to make the necessary communications.

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precept returnable within two weeks from and after its receipt.-

(Sent following Precept No 277A

Read further return dated the 15th Instant, from the Judges of the Provincial Court of Circuit in the Southern Division to this Court's precept of the 25th ultimo directing the Criminal Judges to omit in the Report No 5 the Column headed "before

what Court of Circuit to be tried."-

(Benjamin No 458)

Read letter dated the 14th Instant from the Second Judge on Circuit in the Western Division, reporting the commencement of the Sessions at Calicut.-

(Here enter No 462)

Read return dated the 18th Instant, from the Second Judge at Canon Circuit in the Southern Division, to precept dated 13th instant calling for an explanation in respect to the proceedings in case No 1 on the Supplemental Calendar of the Native Criminal Judge of Colligal

(Here enter No 468)

Read return dated the 20th Instant, from the Third Judge on Circuit in the Centre Division, to precept dated 15th ultimo directing the 3d Judge to transmit the proceedings in cases Nos 3, 9, 12, 13, 14, and 15 of the Bellary Calendar for the 1st Sessions of 1829.-

(Here enter No 470)

Read letter dated the 17th Instant from the Provincial Court of Circuit in the Centre Division, submitting copy of a return dated 1st instant from the Criminal Judge of Chingleput explaining his reasons for not instituting proceedings against certain witnesses

for

9th July 1829.

for Perjury.-

(Here enter № 471)

Read letter dated the 25th Instant from the Additional Judge on Circuit in the Centre Division reporting the opening of the Sessions at Cuddapah-

(Here enter № 479)

Read return dated the 29th Instant from the Judges of the Provincial Court of Circuit in the Northern Division, to precept dated 6th July calling for an explanation from the Criminal Judge of Guntoor relative to case № and also from his Master respecting case № 11 disposed of by the Criminal Judge in April last.-

(Here enter № 480)

Read return dated 10th Instant from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated 25th Ultimo directing that Court to furnish the Criminal and Joint Criminal Judges in the Division with a copy of the Extract from the proceedings of the Zillah of the same date.-

(Here enter № 447)

3rd August 1829.

F. H.

At a Court of the Poydaree Adalut.

Present,

Thursday, 30th July, 1829. F. A. Grant Esqre. James Cochrane Esqre. William Oliver Esqre. } Judges.

Read return from the Third Judge late on Circuit in the Centre Division under date the 29th, to the Court's Precept of the 16th Instant, on the subject of the Petition presented by Vontedolas Atchama.-

(Here enter № 469)

Read again the Petition above mentioned.-

(Here enter Misc. Pet. № 14 of 1829.)

The only point on which the Court considered an explanation necessary, in the case of this Petitioner, was the assertion contained in it that Witnesses were named by the Prisoners in Case № 34 Cuddapah Calendar First Sessions 1829, but that their evidence was not taken, and it did not appear by the Calendar that any such Witnesses were examined or summoned. The Third Judge was therefore desired to report whether this part of the Petitioners statement was

30th July, 1829.

was correct.

2. Thereafter was received a Certificate "that the Witnesses, Eighteen "in number, who were named by the "four Prisoners in the Case allowed "to, to give evidence on their behalf, "were summoned to appear before the "Court of Circuit, and that, with the "exception of one who could not be "discovered in his Village, the attendance "of all of them was procured and "their evidence taken in the Case."

3. After this Statement it only remains for the Court to reject the Petition.

3rd August 1829.

No 1

F. H.

At a Court of the Foujdaree Udalut.

Present

Monday, 3rd August, 1829.

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

Read letter, stated the 1st May last from the First Judge on Circuit in the Western Division, forwarding case No 17 of the Calendar of the Zillah of Malabar 1st Sessions 1829.

(Exhibit No 262)

The First, Second and Third Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner "Velangothil Conee Maideen", 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 1813, 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.

Ordered the following Letter No 281 to be issued.

Read return under date the 20th to the Court's Precept of the 15th Ultimo, calling upon the Third Judge late on Circuit in the Centre Division to send up

23d July 1829. that contained in section VII Regulation III 1819.

3d August 1829.

up a translation of the whole trial in Case No 25 of the Cuddapah Calendar for the First Sessions of 1829.-

(Hereunto No 475)

The Court having attentively considered the proceedings in this Case, are of opinion that the evidence against the prisoners, as to their having taken away any property, is by no means satisfactory. It has in fact confirmed the doubts recorded in the proceedings of this Court under date the 15th Ultimo, as to the propriety of the conviction of these prisoners. The Court accordingly resolve to direct their unconditional release.-

Ordered that extract of these proceedings be transmitted to the Third Judge late on Circuit in the Centre Division for his information and guidance by Precept returnable without delay.-

(Sent following Precept No 282.

Read letter dated the 11th Ultimo from the First Judge late on Circuit in the Northern Division, with a copy of the Calendar of persons committed for trial by the Criminal Judge of Chicacole at the First [illegible] 1829.

(Hereunto No 459)

7th August 1829.

No 1 A period should have been fixed for the detention of the prisoners in this Case, in default of their finding the security required- The First Judge will explain whether before him the first witness recognized the 6th prisoner as one of the armed gang- the 2nd witness the 5th 6th and 7th prisoners- the 3rd witness the 2nd 3rd 4th and 6th prisoners and the 4th witness the 1st 2nd 3rd and 4th prisoners and especially whether the last deposed that he "saw the 2nd 3rd and 4th prisoners "drawing out the spikes from the prose- "cutors body after stabbing." The Judges cannot reconcile the acquittal in this case with the evidence given before the Criminal Court- and the malice proved against the prisoners.-

No 2. The First Judge should have mentioned, in the column of Remarks, which of the Witnesses it was whose absence caused the trial of this case to be postponed.-

No 3. For the Court of Sanguaree Rahut there does not appear to have been any necessity for postponing this trial. the evidence of the 1st and 2nd Witnesses who deposed before the Criminal Judge to having seen the arrow, which killed the

the deceased, that by the prisoner together with the prosecutors confessions, were quite sufficient for his trial, without the evidence of the absent Witness (the 2nd) who did not see the prisoner shoot.

4. The impropriety of postponing a trial, unless the evidence subsequently forthcoming is material to conviction, is too obvious to require further comment.

No 10. 5. The acquittal of the Prisoner in this case appears to have been entirely owing to the objections taken by the Mahomedan Law Officer to evidence which were perfectly admissible by the English Law. If the Witnesses identified the prisoner, it mattered not whether they had also been called by him or not. The Judge cannot reject the apprehension to entertain that in this case the guilty have escaped punishment.

No 13. 6. The period for which the 1st prisoner was required to find security for good behaviour, should have been specified.

No 14 & 15. 7. The imperfect manner in which these cases appear to have

have been sent to the Criminal Court, should have been brought to the particular notice of the Magistrate of Vizagapatam. The first Judge also ought to have abstained from trying any cases in which material evidence for conviction may have been forthcoming - but had not been procured. One of the principal duties of a Judge of Circuit is to amend the errors of the lower Courts, to point out the material facts for which proof may be wanting and to abstain from trial when the same may not be present, but is forthcoming. In Case No 15 the First Judge seems to have most unaccountably overlooked altogether the evidence of the two prosecutors.

No 16. 8. In this case also the evidence of the three prosecutors seems to have been considered unavailing. The remarks on No 13 apply also to this Case. the evidence of the 1st and 2nd Witnesses appears to have been rejected under the same mistake.

No 17. 9. See remark on No 9.

No 18. 10. In this case as well as in No 7, it should have been mentioned which

July 1829. that contained in section VII Regulation III 1802.

3rd August 1829.

3rd August 1829.

which of the Witnesses was absent, in order that the Court might judge of the sufficiency or otherwise of the reasons for postponing the trial, which they are now precluded from doing - Of the 18 Cases on the Calendar, 4 were postponed - The Judges desire they may be furnished with a full report specifying in the most particular manner the grounds of postponement in each Case -

II. The Judges in conclusion deem it requisite to call the special attention of the first Judge to their proceedings of the 25th February 1829 and to those of the 27th August 1828 and 20th Ultimo, respecting the evidence of prosecutors and the advantage of postponing trials when evidence material to conviction is forthcoming but has not been obtained - The postponement of trials on other cases is prejudicial to the accused - and requires the most satisfactory explanations -

Ordered that extracts of these proceedings be sent to the First Judge

*Vide Regulation 4 of 1825 Circulated under date 28th June 1827 -

3rd August 1829. Judge late on Circuit in the Northern Division for his information -

Sent following letter No. 2831 5

Read return, dated the 24th Ultimo from the Second Judge of the Provincial Court of Circuit in the Western Division, to precept dated 13th instant directing that the remainder of the sentence passed on the prisoners in case No 1 Additional Calendar of the Auxiliary Court in the Zillah of Malabar 4th Quarterly Sessions of 1828 so far as regards imprisonment be remitted -

(Here enter No 483)

Read letter dated the 29th Ultimo from the Second Judge on Circuit in the Northern Division, reporting the commencement of the Sessions at Nellore -

(Here enter No 484) S

F. H.

At a Court of the Tovjdaree Adalut

Present,

Wednesday 5th August, 1829.

F. A. Grant, Esqre 1st Puisne Judge.
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

Read letter dated the 30th April last from the First Judge on Circuit in the Western Division, forwarding case No 2 of the Calendar of the Zillah of Malabar 1st Sessions 1829.

24 H. 20

(Here enter No 263)

The First, Second and Third Puisne Judges having maturely considered the proceedings of the Judge on Circuit, the future of the Provincial Law Officer and the future of the Cazeecoal Coozat and Moofties of the Tovjdaree Adalut, confirm the said future of the Cazeecoal Coozat and Moofties aforesaid, and acquit the prisoners,

2nd "Copakandatil, alias
Coonata Ahmud," and

3rd "Copakandatil, alias Toondatil
Maideen Kootty,"

but direct that they be severally required to find two sureties in thirty Rupees each, for their good behaviour and appearance when required within six months, or in default thereof

that

5th August, 1829. that they be each detained for six Months in confinement.-

(Sent following letter No 287

Read letter dated the 10th April last from the First Judge on Circuit in the Western Division, with record of trial in case No 29 Malabar Calendar 1st Sessions 1829.-

(Here enter No 233)

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 Fouzdaree Adalut are of opinion that the evidence is sufficient to convict the prisoner,

"Vaya Koallatil Ouiz"

of the crime of Murder, and convicting him thereof do under Section X Regulation VIII 1802 adjudge him to suffer death by being hanged at the usual time and place of execution.-

(Sent following letter No 288

Read letter dated the 10th June last, from the Third Judge on Circuit in the Centre Division, transmitting the proceedings in case No of the Cunnum Calendar for the 1st Sessions of 1829.-

(Here enter No 272)

The First, Second and Third Judges

5th August, 1829. 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 Fouzdaree Adalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and under the provisions of Section X Regulation VIII of 1802 adjudge the prisoner,

"Cumpoola Polee Reddy"

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

(Sent following letter No 289

Read letter dated the 15th April last from the Third Judge late on Circuit in the Northern Division, with record of the trial in case No 26 Chicacole Calendar 2nd Sessions 1828.-

(Here enter No 223)

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

"Tamoolah Caumiah"

direct that he be detained at liberty.-

(Sent following letter No 290

Read

5th August 1829.

Read the following Reports.

From the Third Judge of the Provincial Court of Circuit in the Northern Division dated the 7th May last, on the Second Quarterly Sessions for 1829 at Masulipatam.

(Bereenter No 281)

From the Second Judge late on Circuit in the Southern Division dated the 1st Ultimo, on the First Sessions of 1829.

(Bereenter No 423)

From the Third Judge of the Provincial Court of Circuit in the Western Division dated the 9th Ultimo, on the Second Quarterly Sessions for 1829 at Tellicherry.

(Bereenter No 444)

Para 1. The first of these reports calls for no particular remarks from this Court.

2. The Judges of the Tanjore Court cannot peruse with satisfaction the 3rd Para of Mr Bird's report wherein he notices the light Calendar which he received in Tinnevelly, and the few instances, compared with former Circuits of the commission crime of perjury in the Districts of Madura and Tinnevelly.

3. In Para 6 Mr Bird alludes to an application made to him for

5th August 1829.

F. H.

for redress by one Arishtna Pillay complaining of acts of oppression by an officer of the Raja of Tanjore. In this case it would appear that the Magistrate of Tanjore declined to interfere in consequence of the village in which the act occurred being one of several, in which the entire police authority had been transferred to the Raja as reported by the former Magistrate to Government in October 1824, a measure which the present Magistrate observes "has not yet been "sanctioned or noticed by Government". The Judges understand that the Government in the Political Department recognized the Raja's authority over certain lands, but it seems desirable that by orders issued in the Judicial Department, the authority of the Magistrate and the Raja respectively should be defined, in order that the people and the Courts may know the extent of their jurisdiction.

4. Paras 9 and 10 of Mr Bird's report refer to an extraordinary outrage and breach of the peace in the Naman Militah of the Salem Gillah, forming case No 7 on the [illegible] Salem Criminal Judge,

5th August 1829.

Judges, which shews that part of the Salem District to be in a very unsettled state. The Judges are of opinion that unless the police authority in that district is exercised with much Judgment and vigour the worst consequences may ensue. The suit is already of sufficient magnitude to deserve the prompt notice of Government.

5. The Court entirely approve of the second Judge's proceedings, reported in Para 12, in the case of Shaik Dawan the last of the reputed Phansegars in confinement in the Salem Jail.

6. They also consider the orders issued by the Collective Court in consequence of the representations of the second Judge as to the unhealthiness of the Salem Jail to be proper and judicious. The orders directed the transfer to other Jails in the same Division of all prisoners whose remaining period of imprisonment exceeded 6 months.

Paras 13 & 14

7. In para 15 Mr. Bird states that the objections urged in his last Report to the provisions of Section 2 Regulation I of 1825 still exist. On the subject the Judges of the Fauzdaree have recently submitted drafts of a new enactment for the sanction of the Right

5th August 1829. Right Honorable the Governor in Council.

8. With reference to para 16 of Mr. Bird's report the Judges of the Fauzdaree Adawlut have already so far construed Regulation VI of 1827 as having a retrospective effect, that in their proceedings under date the 22nd January last they directed the Cases of all prisoners detained in confinement in the different Jails previous to the 1st July 1827, under requisition of security, and still remaining in confinement on that account, to be enquired into by the respective Judges on Circuit and dealt with under the general provisions of that Regulation, and the Case of Shaik Dawajee above mentioned, was one to which those orders expressly applied. The only persons so confined, in the Southern Division, according to the returns which were then before the Court, who had been upwards of three years in confinement, were the reputed Phansegars in the Salem Jail all of whom have been since released. But it is resolved to call upon each of the four Provincial Courts to submit a list of the prisoners in confinement within their respective divisions for more than three years on default of security, with concise explanations

and

that contained in Section VII Regulation III 1807.

5th August 1829.

explanations of the cause of the detention of each individual.—

9. The Court beg to invite the particular attention of Government to the 17th para of Mr. Bird's report, in which are noticed the inadequacy of the punishment as at present inflicted with the cat of nine tails, substituted for the Rattan. the bad description of Cats supplied, and the insufficient quality of them, owing to which he adds, "instances have already occurred wherein "prisoners have been detained in Jail from "the want of an instrument with which "they could be legally punished"— The Judges have understood that the form of the cats has been improved and strengthened but whether the weapon issued to the civil authorities is of security equal to that used by the Military is a matter not within their cognizance.—

10. In paras from 18 to 23 Mr. Bird discusses the subject of the control vested by the existing Regulations in the Courts of Circuit over the proceedings of the Magistrates. In his opinion of what that control should be, the Judges of the Bengal Circuit entirely concur, and their sentiments to that effect have been

10th Month 1829

F. H.

5th August 1829.

been on more than one occasion submitted to Government but they cannot go along with him in considering the Regulations in force as vesting in a Judge on Circuit such extensive authority over the acts of the Magistracy as is described in the 21st para of his Report.—

11. Mr. Shakespear in the 17th para of his Report noticed a case on the Calendar of persons punished by the Joint Criminal Judge, in which, from the abstract of the charge, the prisoners, who were 8 in number, appeared to have been guilty of Gang Robbery, and the proceedings were in consequence referred to, when it was found that the proof adduced established only a case of theft, by which the prosecutor suffered a loss of 64 Rupees— Mr. Shakespear observes that much unnecessary trouble would have been prevented in this instance, if the column shewing the extract of punishment had also exhibited the actual crime of which the prisoners had been severally convicted, and recommends that this information should be required to be always

furnished

that contained in Section VII Regulation III 1809.

5th August 1829. furnished in these Calendars.-

12. The Judges of the Zuydaree Adalut approve of this suggestion, and accordingly direct that where the actual crime proved may be of a character different from that recorded in the Abstract of the charge, the same be invariably noted, for the information of the Higher Courts, in all returns, calendars and Statements.-

Ordered that extract of these proceedings be transmitted to the four Provincial Courts of Circuit to be by them circulated for the information and guidance of the several Criminal and Joint Criminal Judges within their respective jurisdictions.-

sent. Sent following letters Nos 291 & 292

Ordered also that copies of the above reports with extract of these proceedings be sent to the Secretary to Government in the Judicial Department to be laid before the Right Honorable the Governor in Council.

Sent following letter No 293.

Read letter, dated 25th March last, from the 2nd Judge in Circuit in the Southern Division, with record of the trial in case No 4 Cumbaconum Calendar 1st Sessions 1829.-

(Here enter No 184 / 5

The Judges desire their [illegible]

5th August 1829 officers will declare by a second futwa to what specific punishment the prisoners would have been liable under the Mahomedan law if they had been convicted by full legal evidence of the crime of culpable homicide.-

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

20

that contained in section VII Regulation III 1802

6th August 1829.

F. K.

At a Court of the Foujdaree Adalut.

Present:

Thursday, 6th August 1829

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

Read letter dated the 13th May last, from the Third Judge on Circuit in the Central Division, with record of the trial in case No 31 Cuddapah Calendar 1st Sessions 1829.

(Execution No 300)

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 Foujdaree Adalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, and acquitting the prisoners,

1st "Venkatah"
2nd "Tippa Reddy,"
3rd "Villa Reddy," and
4th "Chittapoo Nagee Reddy,"

direct that they be set at liberty.—

In this case the record shews that, on the 10th July 1828 the prosecutor complained to the Tahsildar that, 15 days previously, his son by his first wife

6th August 1829.

wife (the first prisoner in this trial) had broken his arm — and he urges that during his absence from home to complain of this injury, his said son had carried away grain from his house.

2. On the 23rd July 1828, or thirteen days afterwards, both father and son sign before the Tahsildar an agreement to settle their difference by a Punchayet.

3. The decision of the Punchayet appears on record with the Tehroor date alone, corresponding to the 29th July 1828.

4. On the 28th August, the son complained to the Principal Collector of Cuddapa of the incompetency of the Tahsildar to assemble such a Punchayet. He accused his father of concealing property to the value of Pagodas 2,300 in which he had a right to share — of influencing the Tahsildar by unfair means of making a false complaint against him and begged that the illegal decision of the Punchayet might be annulled and the dispute referred to the Civil Courts.

5. Nearly two months after this, or on the 21st October 1828 the father presents to the same European Officer Mr Dalzell the complaint which forms the subject of the present trial in

6th August 1829.

which the son with three others stands indicted for breaking the father's arm, and robbing him not only of grain, but of money and valuables to the extent of Rupees 2720 also. In this complaint the father distinctly states that he gave to the Tahsildar a bribe of 150 Rupees in the presence of two witnesses — but he urges that his son bribed him with 200 Rupees, or 50 more than he (the father) gave.

6. The result of the sons application to the Collector to annul the illegal Punchayet, and of any inquiry that may have been instituted into the bribery alleged is not before the Court. But the present case was obviously one of counter-complaint, involving the character of a considerable native officer, and from its intricacy and involved interests, demanded the utmost experience of the Magistrate to unravel. It ought not therefore to have been left to the investigation of his assistant.

7. From want of due preliminary investigation, a matter of family dispute, which by judicious inquiry might have been settled at once by the Magistrate, has been permitted

6th August 1829.

permitted to go on to the Courts, where it has exhibited a scene of perjury as discreditable to our tribunals, as it must be prejudicial to the moral character of the people. Nay in a petition addressed to this Court (No 19 of 1829) it is alleged that the scenes which existed in this unhappy family has ramified into an attempt at Murder, committed on the sons wife, for which it is alleged the father has been committed for trial, during the sons imprisonment, an event which might perhaps have been prevented by a judicious settlement of the previous difference by the interposition of the Magistrate.

The Judges at the same time cannot withhold the expression of their regret at the very defective proceedings held in this case both by the Criminal Court and the Judge who presided at the trial. The fact was before them that the Prosecutor on the 10th July 1828 had complained that his arm had been broken fifteen days previously yet in the indictment the 21st August is the first day specified and though the Prosecutor had originally complained that the robbery of grain took place many days

J. U. 6th August 1829.

after his arm was broken, he was allowed to swear that they were simultaneous, and accompanied by the loss of much money and that he himself was present when he had originally stated that he was absent without due inquiry as to the real facts of the case in this respect. Besides the first prisoner admitted that he had carried away the grain which he alleged to have been his own property and sufficient evidence was not taken on this point although no doubt can exist that a son has an inherent right in the property of a Bindoo father.

The Judges are inclined to think that the cause of justice demands the committal of the prosecutor and of the principal witnesses for the prosecution for perjury in this case. But before issuing any final orders they wish to learn the result of the inquiry made into the alleged bribery of the complaint requiring the proceedings of the Punchayet to be annulled, and of the commitment for attempt at murder before mentioned also the opinion of the Magistrate as to the exact state when the arm was broken, and when the property was removed, for it seems to have been taken at different dates. It is accordingly resolved to require the

3rd

that contained in section VII Regulation III 1809.

6th August 1829. 3rd Judge late on Circuit to furnish the Magistrate in the Zilla of Cuddapah with the original English translation of the trial in this case, herewith returned, with extract from these proceedings and to request from him a report on these points with his opinion as to the success of a prosecution for perjury in this instance.—

(Sent following letter No 294)

J. 10th August 1829

F. H.

At a Court of the Foujdaree Adalut.

Present

Monday 10th August 1829. J. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

Read letter dated the 17th May last, from the Third Judge on Circuit in the Centre Division, transmitting the Proceedings in Case No 15 of the Cuddapah Calendar for the 1st Sessions of 1829.—

(Here enter No 287)

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 Moftee of the Sungoorce Adalut Coozat and Moftees of the Cazee Adalut confirm the said futwa of the Cazee and Coozat and Moftees aforesaid, and acquitting the prisoners,

1st "Dareera"
2nd "Moatadoo"
and
3rd "Yereeala Yenadigadu alias Nunnegadu"

direct that they be set at liberty.—

In this case of an atrocious murder, in which the wounded man was speechless when discovered, and died without being able to explain who the

Circuit

the perpetrators of the crime were - it was of the first importance to discover how and when the persons accused of the offence became suspected of it. - Before the police the Prosecutor declared that Pitchi reddy Condana of Timracountapilly informed him that the first and third prisoners were passing on the road the day of the murder, and that this was his cause of suspicion against them - and he repeats this before the Criminal Court naming his informer as Venkee Reddy Condummah. yet before the Circuit Judge the clue thus given is not pursued and the confessions of the first and third prisoners, totally uncorroborated by other testimony, has necessarily been considered by the Judges evidence insufficient for conviction -

2 The Circuit Judge as well as the Criminal Court have performed their duty defectively in not pursuing the clue given by the prosecutor - They ought to have examined Condummah, and his evidence might have led to other testimony. It would, at all events, have established the fact of the presence or absence of the 1st and 3rd prisoners from the vicinity of the murder.

3 The two witnesses for the 2nd prisoner were named by him to prove an

alibi, yet the Judge on Circuit merely questioned them generally as to their knowledge of that person - he ought, as Counsel for the prisoner, to have interrogated them as to the alibi alleged - and should have called for evidence stated to be forthcoming that the cloth which was produced belonged to one of the prisoners - It was admitted by the prosecutor that he could not recognize it to belong to the deceased - and it does not seem to have been included amongst the six articles missing. -

4. The Judge late on Circuit will direct the Criminal Court to bring the 3rd prisoner acquitted on the present charge to trial for escape from custody under the orders of this Court of the 13th ultimo. -

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

(Sent following letter No. 295

Read letter dated the 18th June last from the Third Judge on Circuit in the Centre Division, transmitting the proceedings in cases No 2 & 3 of the Cumbum Calendar of postponed Cases for the 1st Sessions of 1829.

(Register No. 382)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit

No 2.

18th August 1829.

Circuit, the futwa of the Provincial Law Officer and the futwa of the Cazee ool Koza and Mooftees of the Tunjaree Adawlut confirms the said futwa of the Cazee ool Coozat and Mooftees aforesaid, so far as it acquits the prisoner,

1st "Cadery Poolegadoo"

and direct that he be set at liberty, and being of opinion that there is not sufficient evidence against the prisoner,

2nd "Caparu Unhadoo"

they do, notwithstanding the futwa of their Law Officers, acquit him also and direct that he be set at liberty.

Sent following letter No 296.

No 3.

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 Cooza and Mooftees of the Tunjaree Adawlut confirming the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and acquitting the prisoner,

"Cadiree Poolegadoo"

direct that he be set at liberty.

1. These trials have been reported under Section VIII Regulation I of 1825, and being similarly circumstanced, have been included in one report.

2. In No 2 the prisoners Cadery Poolegadoo

F. K.

18th August 1829.

Poolegadoo and Caparu Unhadoo were charged with highway robbery said to have been committed on the 11th of May 1828, and in No 3 the prisoner Cadery Poolegadoo was charged with Burglary said to have been committed in the night of the 21st August 1829. The cases were included in the Cumbum Calendar for the Second Sessions of 1828, and the trial of them was postponed in consequence of one of the Witnesses who had attested the confessions of the prisoners before the Head of Police and the then Acting Joint Criminal Judge of Cumbum (Mr C. P. Brown) not being in attendance.

3. In his letter accompanying the trials the Third Judge has declared his opinion that the prisoners in both cases ought to be released, owing to the extreme irregularity of the Acting Joint Criminal Judge's proceedings. In this opinion the Judges of the Tunjaree Adawlut have entirely concurred and have ordered them to be set at liberty accordingly, though not without attributing the irregularities to being in ignorance of the particular notice in question to the Acting Joint Criminal Judge.

4. In each case the prisoners were stated to have confessed before the Head of Police, and the cases were sent

306/1

and

6th August 1829.

sent up to the Acting Joint Criminal Judge with the witnesses who attested the confessions. That Officer however, without taking any fresh deposition from the prosecutor, merely had the original charges before the Head of Police read over to them, and then made them sign a declaration that they had given them willingly, himself making a note of what had been done, to which he affixed his own attestation.—

5. In neither case were the prisoners examined again, but their confessions before the Tahsildar having been read over to them, they were asked if they had given them willingly, and made to sign a paper to that effect, which was attested by the Acting Joint Criminal Judge as an examination taken by him; and instead of any examination of the two Witnesses to the confessions which had been made before the Head of Police, they were merely made to attest the signatures of the prisoners before the Acting Joint Criminal Judge; an entry being made in the Diary that as the circumstances of the prosecution were detailed in the Petition, no farther examination was considered necessary, and the Cases were committed for trial.

6. In Case No. 2 also a separate Witness

6th August 1829.

Witness (a female) had been examined by the Head of Police respecting the Robbery but neither her evidence nor that of the Peons who apprehended the prisoners was taken by the Acting Joint Criminal Judge — In fact as the case was sent up to the Circuit Judge, there was not the least proof that the prosecutrix was robbed.—

Para 5. 7. The Third Judge states that when the Cases were tried by him, only one of the attesting Witnesses to the confessions was alive, and (he adds) "in "consequence of the irregularity in the "proceedings of the Acting Joint Criminal "Judge, he did not consider it worth "while to endeavour to procure the attendance "of Witnesses whom he (the Acting Joint "Criminal Judge) had neglected to examine." In this the Third Judge was in error whatever might have been the irregularities of the Committing Officer's proceedings, it was the province of the Third Judge to correct them as far as he had the power of doing so, and as has been frequently pointed out by this Court, he should not have proceeded with either of the trials if he was of opinion that further evidence was requisite to conviction and procurable.—

Case that para 7 of the proceedings

9th Aug 9th August 1829.

proceedings be furnished to the Third Circuit in the Centre Division and that Peiras from No 6 inclusive be transmitted to the late Acting Criminal Judge of Cumbum for information.-

(Sent following letter No

Read letter stated the 21st last from the Second Judge on Circuit in the Southern Division, with the trial in Case No 2 Salem Calendar 1st Sessions 1829.-

(See enter No 307.)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge Circuit, the futwa of the Moonsiff Law Officer and the futwa of the Sudder Coozat and Mooftees of the Sudder Adawlut, confirm the said futwa of the Cazee cool Coozat and Mooftees aforesaid, and acquit the prisoner, "Arjoonan"

but considering that strong suspicion, though not amounting to conviction, attaches to him, they direct that he be required to find two sureties in thirty Rupees each for his good behaviour and appearance when required within two years, or in default thereof that he be detained for the term of two years in confinement.- The

F. C.

10th August 1829.

The Judges do not think that the evidence in this Case is sufficient for the conviction of the prisoner. It is true, he confessed before the Criminal Judge, but then he pleaded insanity at the time; and the evidence on behalf of the prosecution goes to shew that his mind had been in an unsettled state for a very considerable time. The testimony of the 5th witness, the Village Moonsiff is particularly deserving of attention, both because it proves the unsettled state of the prisoner's mind, and also that at first there were two stories as to the way in which the deceased met with her death. The evidence of the 4th Witness is much to the same effect. Not the slightest credit can be attached to the prosecutor and the 1st Witness Pena Yellamal. Upon the whole the Judges think it very probable that in point of fact the prisoner did kill the deceased, but as before stated, the evidence appears to them insufficient for his conviction, and as the proceedings on the trial tend so strongly to throw doubts of his sanity at the time, on the
could be dangerous.

the Report
No

and

10th August 1829.

confession before the Criminal Judge.—
Ordered that extract of these proceedings be transmitted to the second Judge late in Circuit in the Southern Division for his information.—

(Sent following letter No. 298

Read the second futwa delivered in case No 4 Combaconum Calendar Pt. Sessions 1829 by the Cazee ool Coozat and Mooftees of the Foujdaree Adalut.—

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 Adalut, confirm the second futwa of the Cazee ool Coozat and Mooftees aforesaid, and convicting the prisoners,

1st "Croonden,"
2nd "Coontan,"
3rd "Maattan,"
4th "Nullan," and
5th "Maury,"

of the crime of Culpable Homicide, do, in commutation of the penalty of Deyut declared in the said second futwa, adjudge them severally to be imprisoned and kept to hard labor in irons on the public roads or

10th August 1829.

or other public works works for and during the period of one year.—

(Sent following letter No.

Read letter dated the 27th Instant

D C from the Provincial Court of Circuit in the Southern Division submitting the Reports prescribed by Section XXXV Regulation X of 1816 from the General Criminal and Joint Criminal Judges in the Division for the Month of May together with their correspondence thereon.—

(Entered No. 474)

Madura. Case No 29 appears from the Record of the charge to be a petty case of Cattle Stealing; and, if so, should have been disposed of by the Head of Police under the provisions of Section III Regulation VI of 1827.—

The Judges desire that the Provincial Court will intimate to the Magistrate in the Zillah of Madura that the reasons assigned by the Police Officer of the Cheikle Salook for the detention of certain of the prisoners in case No 24 of the Report No 5, for a period exceeding five weeks, are considered altogether insufficient.—

Combaconum The Sentence passed on the prisoners in case No 19 of the Report

No

10th August 1829.

No 5 being illegal, the Judges desire that the Assistant Criminal Judge be instructed to revise it agreeably to the Circular Orders of the Foujdaree Adalut dated 31st October 1828 which declare 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 security, shall be the same.

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Southern Division, directing them to make the necessary communications to the Criminal Judges of Madura and Combaconum and to the Magistrate in the Zillah of Madura

Sent following Precept

Fd.

At a Court of the Foujdaree Adalut,

Present,

Tuesday, 11th August 1829 } Fs. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges.

Read letter dated the 14th ult. from the Magistrate in the Zillah of Cuddapah, submitting copy of a return made by him under date the 11th ultimo to a Precept from the Centre Provincial Court, and requesting the Judges of the Foujdaree Adalut to take into consideration the observations made by him on the subject of references from Tahsildars to the Magistrate.- Place enter No 459 /

Read also letter dated the 15th ultimo from the Centre Provincial Court of Circuit, forwarding at the request of the same Magistrate, copy of a return under date the 12th June last to another precept from that Court.- Here enter No 460 /

The Court proceed to notice

1. such parts of this correspondence as appear to call for particular remark.-

In his return of the 12th June, the Magistrate throws out a suggestion

2. that when the Criminal Court is nearer than the Magistrate, to the Tahsildar who holds the preliminary proceedings, the case should be sent to the Criminal Court instead of to the Magistrate, even if disposable by the latter, unless it be one falling under the provisions of Clause second Section IV Regulation IV of 1826.- This

11th August 1829.

This proceeding, as the Judges of the Provincial Court have justly observed, would be at variance with the Regulations; and in the opinion of the Court it would be otherwise objectionable. When the Magistrate himself may be at a considerable distance from the station of the Criminal Court, it is to be presumed that he generally makes provision for the continuance of his duties at or in the neighbourhood of that station; by placing one of his Assistants in that vicinity.-

3. In the 6th Para of the same return, the Magistrate states that the Amildars in his District have been directed, in all cases "when intermediate references to the Magistrate are indispensable," to mention in their reports to the Court, the reasons for their having referred to him for "instructions". If the rules enacted in the Regulations and the orders issued by this Court are obeyed such references must be rare; and if the above mentioned order is strictly observed, the Judges are persuaded there will be but few occasions for Receipts, on the subject of the Tahsildars delay.- The Magistrate however appears to consider as the grounds for "indispensable references", "doubts as to the sufficiency of evidence, the due measure of punishment, or as to whether the matter of charge should be reckoned a civil injury or a public wrong."-

4. To the Court of Judicature [illegible] an order of this nature appears calculated rather to sanction than to discourage the practice of making unnecessary and

11th August 1829.

and improper references to the Magistracy and to give too great a latitude to the Native Heads of Talook Police.- The Court are decidedly of opinion that in cases clearly not determinable by the Magistrate, a Tahsildar ought not to detain a prisoner pending a reference to the Magistracy for instructions from "doubts as to the sufficiency of evidence".- He ought in such a case, to act upon his own judgment, and either at once release the accused parties where evidence may not be forthcoming- being at liberty to take them up again, on obtaining full evidence against them or forward them to the Court at once on the evidence already taken requesting that they may be there detained until the further evidence if forthcoming can be forwarded.-

5 In the 7th Para the Magistrate remarks upon the mischievous effects, upon the administration of the laws in his District, of a practice which, he learns is there prevalent, of requiring the attendance upon the Circuit Court, of all the Prosecutors and witnesses who may be concerned in a Calendar, at one time; and he observes that where the Calendars are heavy, as they are in his Zillah, the attendance which is thus exacted of witnesses and others, is felt as a great hardship.-

6 With reference to this, it is stated by the Judges of the Provincial Court that "from personal knowledge "they can safely affirm that no unnecessary detention of Witnesses takes place: "while the non attendance both of Prosecutors

11th August 1829.

"Prosecutors and witnesses constantly accord
"and occasions very serious detriment to the
"Court of Circuit."-

7. The Court of Foujdaree Adalut are inclined notwithstanding, to think that the statement of the Magistrate may be warranted by experience. They have reason to believe, with Mr. Dalzell, that former Judges of Circuit, particularly Mr. Newnham gave great relief to the people without inconvenience to the Court of Circuit, and think the same may, con=
=tinue to be given if the Judge about to proceed on the Circuit were to autho=
=rise the Criminal Judge to use his dis=
=cretion with respect to exacting the attendance of Prosecutors and witnesses so as to occasion the least individual hardships consistent with convenience to the business of the Court. It is desi=
=rable that, in lieu of summoning all the witnesses on the same day, they should be summoned gradually so as not to occasion individual detention nor pre=
=vent the Circuit business being delayed.-

8. In the concluding part of his letter dated the 11th July, the Magistrate observes: "it is, however, clear that by "preping the Tahsildars to despatch cases "to the Court with the greatest expedition "there is a danger of hurrying them into "a course prejudicial to the obtaining "of the fullest evidence. Another evil too, "not unlikely to attend the frequent "repetition orders for celerity, is, that "prisoners may be transported from the "places where they are seized to the Tahsildars

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involuntarily, it would seem, have made
the cause is stated to

"Tahsildars Cutcheries with a rapidity incon=
"sistent with humanity."-

9. Upon this the Court have to remark that the main object to be kept in view is, not so much to "forget the dispatch "of cases with the greatest expedition," as to see that no avoidable delay takes place in forwarding the accused; - and it appears to the Court of Foujdaree Adalut that to attain this object it is by no means necessary "frequently to repeat orders for celerity" and certainly not to make such orders circular; but invariably to notice, as they may be brought to view every instance of considerable delay in forward=
=ing the accused not satisfactorily accounted for, such notices being sent only to the particular Officers, whom they may concern.-

10. The Court will conclude these remarks by expressing their concurrence in Mr. Dalzell's observation that the Judges never intended more "than that "unnecessary references from Tahsildars to "the Magistrate previously to the trans=
="mission of cases to the Criminal Court, "should be repressed;" and so far as they are informed, they are not aware that the Receipts from the Provincial Court, of which he seems to complain, have had any other tendency.-

11. The Criminal Court will never dismiss a case so long as a prospect of evidence speedily forthcoming may exist and the Provincial Court will bring to the notice of the Magistracy, and he to that of his Amildars, every case of the unne=
=cessary detention of the accused.- Doubts

as

11th August 1829.

as to the sufficiency of the evidence being understood to justify a representation to the Criminal Court respecting the further testimony forthcoming, or the counts entertained. but not the detention from the Criminal Court of the party accused.-

12. The Provincial Court will desire the Magistrate in future to address the Foujdaree Court through them, and not direct.-

Ordered that extract of these proceedings be transmitted to the Judges of the Provincial Court of Circuit in the Centre Division to be by them communicated to the Magistrate and Acting Criminal Judge in the Zillah of Cuddapah, for their information and guidance.-

/Sent following letter No 305/

Read letter dated the 28th May last from the Third Judge late on Circuit in the Centre Division with the record of the trial in Case No 2 of the Bellary Calendar for the First Sessions of 1829.-

/Here enter No 319/

The Judges cannot pass a final sentence in this case, with[out] more satisfactory information than the record affords with respect to the circumstances which attended the commission of the murder whereof the prisoner stands accused.-

2 If the evidence is to be believed, the deceased was walking when the prisoner seized his beard with his left hand, while he cut his throat with a Razor which he held in his right hand.- A person so assaulted must involuntarily

11th August 1829

involuntarily, it would seem, have made resistance; but the deceased is stated to have not even moved his hands, nor to have called out, but to have quietly submitted his throat to the razor.- Then again the age of the prisoner is said to be "about 90 years" Under these circumstances, it does appear to be almost inconceivable that the prisoner could have cut the throat of the deceased in the manner described.-

Page 28.

3 Adverting however especially to the age of the prisoner, the Judges consider it very desirable to ascertain as satisfactorily as may be practicable, whether at the time of his committing the act ascribed to him he was in his right senses, or whether, as his advanced age might give reason to believe, he exhibited any symptoms of imbecility in mind or body.- They accordingly resolve to call upon the Third Judge to report as fully as may be in his power on these points.- he will also state the prisoner's demeanour and general appearance while under trial before him, and he will instruct the Acting Criminal Judge of Bellary to institute the closest possible scrutiny into the real age of the accused and the prisoner's state of mind at the time, communicating the result of his enquiries without delay to the Third Judge for the information of this Court.-

Ordered that extract of these Proceedings be sent to the Third Judge late on Circuit in the Centre Division by post, receipt returnable in two weeks from and after its receipt.-

/Sent following precept No 306/

And

the evidence being un-
to the

12th A 1824

F. C.

At a Court of the Foujdaree Adaulut
Present,

Wednesday, 25th August 1824. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

Read letter, dated the 6th June last, from the Second Judge on Circuit in the Southern Division, submitting the trial of the prisoner in case No. 21 of the Salem Calendar for the final orders of the Foujdaree Adaulut.

(See enter No. 350)

The First, Second and Third Puisne Judges having maturely Considered the proceedings held before the Judge on Circuit, the futwa of the Prosecutor 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, convicting of Murder and awarding Kisaas, and under the provisions of Section X Regulation VIII of 1802 adjudge the prisoner,

"Maïdar Khan"

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

(Sent following letter No. 307

Read letter, dated the 27th May last

...ns to the sufficiency of the evidence being un-
...representation to the
9th August 1829.-

last from the Second Judge on Circuit in the Southern Division, enclosing the proceedings in Case No 3 of the Salem Calendar for the 1st Sessions of 1826.-

(Here enter No 320)

The First, Second and Third Puisne Judges, on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

" Allavasa Mootoo "

is sufficient to convict him of the crime of Murder, &c, under the authority with which they are vested by Clause First Section II Regulation I of 1818, convict him thereof, but being of opinion that the punishment to which he is liable under the peculiar circumstances of the case be too severe, do sentence him to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of ten years.-

(Sent following letter No 308

Read letter dated the 3rd Instant from the Second Judge on Circuit in the Western Division, reporting the completion of the Gaol Delivery in the Zillah of Calicut.-

(Hereafter No 500)

Read

12th August 1829.

Read return dated the 7th Instant from the Third Judge late on Circuit in the Centre Division, to precept dated 3rd Instant directing the unconditional release of the prisoners in case No 25 of the Cuddapah Calendar for the 1st Sessions of 1829.-

(Hereafter No 501)

15th August 1829

F. H.

At a Court of the Foujdaree Adalut.

Present,

Saturday 7th August, 1829.- F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge.

Read again letter dated the 30th May last from the Third Judge on Circuit in the Centre Division submitting Chitty Calendar 1st Sessions 1829.-

(Vide enter No. 317)

The records of the proceedings held by the Third Judge in cases Nos. 1, 2, 3, 4, and 5 of the above Calendar and No. 2 and 3 of the Supplemental Calendar which according to the remarks entered thereon are to be referred to the Foujdaree Adalut but not having been received.-

The Court direct that the Third 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 above mentioned within fifteen days from the date of the receipt of this precept.-

(Vide following Precept No. 310)

Read letter dated the 5th June last from the Second Judge of the Court of Circuit in the Centre Division submitting

the trial of the prisoners in Case No 3 of the Chittoor Calendar for the Second Quarterly Sessions of 1829.

(Here enter No 352)

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 Foujdaree Adalut, confirm the said future of the Cazee ool Coozat and Mooftees aforesaid, and acquitting the prisoners,

1st "Yanatesgadoo"
2nd "Pampadoo"
3rd "Goorvadoo"
5th "Yerroogadoo" and
6th "Bancunnuto",

direct that they be set at liberty.-

The evidence in this case appears to the Court of Foujdaree Adalut extremely unsatisfactory. Very little reliance can be placed on the testimony of the prosecutors as to their recognition of the prisoners. There is indeed what appears at first sight strong evidence against the 1st prisoner, but there are several circumstances which in the judgment

judgment of the Court render it very doubtful. That he was seized at the place stated is undeniable, but there is no discernable motive for the robbers leaving behind in a place of concealment any part of the plundered property, and it seems very improbable that this prisoner, if he was one of the robbers, should have returned and proceeded in search of it in the manner described by the witnesses. The whole story is very suspicious, and the Judges cannot help fearing that there was some contrivance and management in respect to the bundle said to have been found upon him. His witnesses also appear to have been very imperfectly examined, and the distance between Chintagoonta and Maloomyeer is not ascertained. The 3rd prisoner is alleged to have been in company with the first prisoner, but made his escape when the first was seized. The 1st was seized near a village called Pedda Bubbarah, as far as the Court can collect from the evidence: and the 3rd with the 2nd 4th and 5th were seized near Bundapully on the same day, and apparently

the

15th August, 1829

apparently at nearly the same hour as the 1st, but the distance between Bolola Buldarah and Bundapully is not stated, and the evidence against the 3rd prisoner thus becomes perfectly worthless. The Judges cannot presume that the two villages are so near to each other as to admit of this prisoner running from one to the other in a few minutes, tho' it seems probable that they are near each other. Then Bundapully is close to the spot where the robbery was committed, and it seems very improbable that the robbers should remain 24 hours near the scene of their exploit. It nowhere appears who seized the 6th prisoner, and where he was seized. Upon the whole the Judges distrust all the evidence, so far as it goes to connect the prisoners with the robbery, and are of opinion that they should be discharged unconditionally. In the evidence there are several inconsistencies which the Judges have not noticed, and there appears to the Court too much reason to believe that these men were seized only because the Police deemed it requisite to apprehend some one.—

Ordered that extract of these proceedings

F. H.
15th August 1829.

Mr Grant.
and
Mr Oliver

W.

proceedings be sent for the information of the Second Judge of the Provincial Court of Circuit in the Centre Division.

(Sent following letter No 311

Read letter dated the 28th March last, from the Second Judge on Circuit in the Southern Division submitting Case No 1 Commissioners Calendar 1st Sessions 1829.—

(Here enter No 180)

The First and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners is sufficient to convict the

1st "Nuah Mohummud,"

of the crime of theft and the

4th "Puchroy,"

of the crime of receiving stolen property knowing it to have been stolen, do under the authority with which they are vested by Clause First Section II Regulation I of 1818, convict them thereof and sentence the said

1st "Nuah Mohummud"

to receive one hundred lashes with a cat-of-nine-tails 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

years, and the said

4th "Pucheeny,"

to receive fifty lashes with a cat of nine tails and to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of four years.

The Judges aforesaid farther direct that the prisoners

2nd "Maiamen," and

3rd "Nagore Meerah,"

be required to find respectively two sureties in one hundred Rupees each for their good behaviour and appearance when required within two years, or in default thereof that they be each detained in confinement for two years.-

(Sent following letter No 312

Mr Grant
Mr Cochrane &
Mr Oliver

Read letter dated the 13th June last from the Second Judge on Circuit in the Southern Division submitting the proceedings in case No 22 Salem Calendar 1st Sessions of 1829.-

(Here enter No 374)

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 cool Coozat and Mooftees of the Zillah Court, confirm the said Futwa of the Cazee cool

cool Coozat and Mooftees aforesaid, and acquitting the prisoner

"Candy,"

direct that he be set at liberty.-

The Judges see strong grounds to distrust the evidence for the prosecution. Putting out of consideration the contradictions in that evidence, it seems incredible that the swelling at the bottom of the deceased's belly should be the only mark of violence on the body, if as is stated by the Witnesses, the prisoner gave her so many kicks; and yet all who speak to this point say that there was no other. At all events the Judges think it quite clear that the Witnesses have greatly exaggerated the matter, and if the death of the deceased was in point of fact caused by a kick given by the prisoner, there appears no reason whatever to impute to him premeditated malice, or even malignity of heart. On the whole therefore the Judges think they are justified in ordering his unconditional release.-

Ordered that extract of these proceedings be furnished for the

the information of the Second Judge late on Circuit in the Southern Division.

(Sent following letter No 313.

Read letter dated the 21st April last from the 1st Judge on Circuit in the Western Division, with record of the trial in case No 1 Malabar Calendar 1st Sessions 1829.-

(Here enter No 243)

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 under the provisions of Section X Regulation VIII of 802 adjudge the prisoner,

Parayan Coonatu Chelail Koolavan,

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

Sent following letter No 314.

F. H.

At a Court of the Foujdaree Adalut.

Present

Monday, 17th August 1829

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

Read letter dated the 25th March last from the Second Judge on Circuit in the Southern Division, submitting case No 2 Combaconum Calendar 1st Sessions 1829.-

(Here enter No 182)

The Judges desire the Law officers will declare by a second futwa to what specific punishment the prisoner would have been liable under the Mohummudan law, supposing the evidence of the first, second, third, fourth, ninth and eleventh Witnesses not to have been subject to the objections stated in the above futwa.-

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

Read letter dated the 1st April last from the Acting First Judge on Circuit in the Northern Division with record of the trial in case No 15

Nellore

17th August 1829. Nellore Calendar First Sessions 1829.

(Execution No 209)

The First Second and Third Puisne Judges having maturely considered the Proceedings held before the Judge on Circuit, the Opinion of the Principal Law Officer and the Opinion of the Cazee ool Cozat and Mooftees of the Foujdaree Adalut, confirm the said Opinion of the Cazee ool Cozat and Mooftees aforesaid, and acquit the Prisoner,

"Agilly Nanummah,"

but being of opinion that a strong suspicion though not amounting to conviction, attaches to her, they direct that she be required to find two Sureties in Fifty Rupees each for her good behaviour and appearance when required within two years, or in default thereof that she be detained for two years in confinement.

The Judges think that there can be no doubt, that the deceased died from the effect of poison mixed in his food, but the conviction of the prisoner depends mainly upon the degree of credit to be attached to her confession before the Criminal Judge. There seems too much reason to believe that her first confession

was

17th August 1829. was obtained by improper means, and therefore the Judges are not disposed to attach much weight to her confession before the Criminal Judge. In her confession there was a very material fact mentioned, which admitted of easy proof, and to which evidence ought to have been taken, but was not — This was the fact, that after she had dressed the food and left the house, she returned and threw in the poison. The Judges think it greatly to be regretted that the fact of her having returned and meddled again with the food, which was already dressed, was not ascertained. They have given the most anxious consideration to this case, and though there are very strong grounds to presume the prisoner's guilt, they think that under all the circumstances of the case it would be dangerous to convict her — There is nothing to shew that she herself had any direct motive for committing the act, and admitting what she says, that she received the powder from her supposed pursamar, it is still possible that she was not fully aware of its deleterious nature — It is a very difficult case, and upon the whole the Judges think it the safest course to

17th August 1829 to order her release on security. The first Judge late on Circuit will perceive that this judgment has not been effected by any consideration of the youth of the prisoner, otherwise than as it serves to warrant a doubt, whether, at the time, she was fully aware of the fatal effects of the powder, supposing it to have been administered by her.

Ordered that extract of these proceedings be furnished for the information of the First Judge of Circuit in the Northern Division.

Sent following letter No 315

Thursday, 20th August, 1829

At a Court of the Foujdaree Adaulut.

Present,

F. A. Grant, Esqre 1st Puisne Judge
James Cochrane, Esqre 2nd Puisne Judge
William Oliver, Esqre 3rd Puisne Judge

Read the second futwa delivered in case No 2 Cumbacconum Calendar 1st Sessions 1829 by the Cazee and Cazgat and Mooftees of the Foujdaree Adaulut.

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 and Cazgat and Mooftees of the Foujdaree Adaulut, confirm the second futwa of the Cazee and Cazgat and Mooftees aforesaid, and convicting the prisoner "Thanady,"

of the crime of severely wounding, do, under the sentence of Bokoobut declared in the said second futwa, adjudge him to receive one hundred lashes with a Cat-of-nine-tails and to be imprisoned and kept to hard labor on the public roads or other public

20th August 1829. public works for and during the period
of seven years.-
(Sent following letter No 314

20 "

At a Court of the Tongalaree Division.
Present,

Monday 24th August, 1829. F. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2nd Puisne Judge.
William Oliver Esqre 3rd Puisne Judge.

Read letter dated the 29th ultimo
from the Provincial Court of Circuit in the
Centre Division submitting the Reports
prescribed by Section XXXV Regulation X
of 1816, received from the several Criminal
and Joint Criminal Judges in the Divisio
for the month of June last, together
with their proceedings thereon.-
(Here enter No 495)

With reference to the remarks
Chittoor of the Criminal Judge of Chittoor on Case
No 103 of the Report No 5 viz that "the prisone
having been convicted and sentenced in
"Cases Nos 101 and 102 the complaint is ordered
"to be discharged" the Judges desire the
Provincial Court will intimate to this
Officer that it is his duty to examine into
every and all charges brought against
a prisoner, and upon conviction to pass
one sentence upon the whole, or as
many of the charges as may be proved
against him- The Judges at the same
time are of opinion that had the prisoner
been convicted of the several charges
brought against him, the sentence
passed

17th August 1829

4th August, 1829.

passed by the Criminal Judge of "Upon the "imprisonment with hard labor in irons" would have been by no means adequate punishment.

2. The 1st prisoner in said Report should have been forwarded to the Criminal Court immediately. The Judges desire the Magistrate will intimate to the Head of Police that after he has taken such evidence sufficient to satisfy himself of a prisoner's guilt he should immediately forward him to the Criminal Court, notwithstanding other prisoners remain to be apprehended, stating at the same time in his Report that the other prisoners will be forwarded as soon as discovered.

3. With reference to the observations of the Judges of the Provincial Court recorded in the 22nd Para of their Proceedings the Judges of the Zillah Court desire the Provincial Court will call upon the several Judges in their Division to transmit the Supplemental Reports as directed in the Circular Order of this Court dated the 27th of September 1821. The Provincial Court require no special authority to exercise the general powers already vested in them.

4. Adverting to the extraordinary delay which has taken place in the Zillah of Chittoor in the transmission of answers called to the Criminal Court. The Judges desire that the returns received from the

24th August, 1829.

the Magistrate be submitted, so soon as received, to this Court, in order that the Judges may be apprized of the measures taken by the Magistrate to prevent a repetition of so objectionable proceeding.

Ordered that extract from these Proceedings be forwarded to the Provincial Court of Circuit in the Centre Division desiring them to make the necessary communications to the Criminate Judge and Magistrate of Chittoor. Precept No. 321 returnable within 10 days from the receipt thereof.

Court following Precept No. 321.

Read letter dated the 15th Instant from the Acting Judge on Circuit in the Southern Division, reporting the commencement of the Sessions at Conjeveram.

(Here enter No 572)

Read return dated the 1st Instant from the Third Judge late on Circuit in the Centre Division, to precept dated the instant directing that the 3rd prisoner in case No 15 of the Cuddapah Calendar be brought to trial for escape from custody.

(Here enter No 516)

Read letter, dated the 15th Instant from the Second Judge on Circuit in the Northern Division, reporting his intention to proceed to Guntoor.

(Here enter No 517)

17th August 1829

24th August 1829

Read letter, stated the 15th Instant, from the Second Judge on Circuit in the Northern Division, with copy of the first Supplemental and additional Calendar of Nellore 2nd Sessions 1829 together with the Persian Interpretation of the Law Officer.

(Hereunto No 522)

Read return stated the 18th Instant, from the Judges of the Provincial Court of Circuit in the Northern Division, to precept stated 29th July forwarding an extract from the Proceedings of this Court relative to the Criminal Reports for May last.

(Hereunto No 520)

Read letter dated the 19th Instant, from the First Judge late on Circuit in the Western Division, inclosing the warrant issued for the execution of the Prisoner in case No 17 of the Calendar Zillah of Malabar 1st Sessions of 1829.

(Hereunto No 527)

Read letter dated the 12th Instant from the Provincial Court of Circuit in the Northern Division, with reports prescribed by Section XXXI Regulation X of 1816 for June last.

(Hereunto No. 523)

27th August 1829

Thursday 27th August 1829.

At a Court of the Sudder Adaulut.

Present,

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

Read letter dated the 3rd instant from the Acting Judge on Circuit in the Southern Division, submitting copies of the Calendars of persons committed for trial before the Court of Circuit at Madura for the 2nd Sessions of 1829.

(Hereunto No 503.)

In case No 7 of the Madura Calendar the prisoner is stated to have given security in No 14 of the Supplemental Calendar for the 2nd Sessions of 1828, for his good behaviour for three years.

It would have been satisfactory to the Court to have been informed whether any measures had been taken against the Surety on securities.

In the Calendar received from the Joint Criminal Judge of the Auxiliary Court at Tinnevelly, the sentence of imprisonment in each of the Cases Nos 3 and 6 ought to have been for 14 instead of 7 years, unless the Acting Judge deemed it necessary to recommend a mitigation of punishment under the provisions

provisions of Clause Second Section III. Regulation I of 1825. It is evident that in each of these cases the crime was gang robbery not secret theft - but the Judges will not now disturb the sentences which have been passed in these cases.-

Ordered that extract of these proceedings be furnished for the information of the Acting Judge on Circuit in the Southern Division.-

(Sent following letter № 327)

Read letter dated the 17th instant from the Provincial Court of Circuit in the Southern Division submitting the Reports prescribed by Section XXXV Regulation X of 1816 received from the several Criminal and Joint Criminal Judges in the Division for the Month of June last, together with their correspondence thereon.-

(Here enter № 574)

Salem 1. Cases №s 123 and 125, of the Report №5, submitted by the Criminal Judge of Salem appear from the record of the charges to be petty cases of cattle stealing and should accordingly have been punished by the Magistrate or Head of Police under the provisions of Section III. Regulation VI of 1827.-

Coimbatore 2. The Judges are of opinion that the sentence of 2 years imprisonment with hard

labour in irons" passed by the Joint Criminal Judge on the prisoner in case №2 of the Report №5, is too severe - the prisoner being merely charged "with having stolen "from the Prosecutor's house in the night "time property to the value of Rupees 16." Should none of the circumstances of aggravation specified in Clause 4th Section III Regulation VI of 1822, have existed, the Judges desire the term of imprisonment be limited to six months as provided in Section VII Regulation X of 1816.-

Tinnevelly 3. With reference to the explanation given by the Police Officer for the delay in forwarding to the Auxiliary Court Cases №s 2 and 3 of the Report №5 - the Judges desire the Provincial Court will intimate to the Magistrate of Tinnevelly that the reasons assigned are inadmissible - In these cases no reference could have been necessary - and with regard to the farther detention of the prisoners in consequence of their having been returned by the Magistrate to the Police Officer. The Provincial Court will point out to the Magistrate that he is not, in any instance, authorized to return a case to his native police - but must either himself decide on it, or forward it himself to the Criminal Court.

Combaconum. 4 The 3rd prisoner in case №1 of the Report №5, who is proved to

27th August 1829.

Salem

Coimbatore

27th August 1829.

to have been the purchaser of stolen property in four different cases, has it would appear, been punished too leniently- The Judges conclude from the record that he is an habitual purchaser of stolen property knowing it to be such and if so instead of six months imprisonment with labor the sentence passed upon him by the Criminal Judge, he was liable under the provisions of clause third Section VI Regulation VII 1822, to committal for trial before the Court of Circuit.-

5. With regard to the reference contained in the last Para of the letter from the Criminal Judge of Combaconum under date the 17th ultimo. viz. "Whether it is necessary for a Criminal Judge to examine all cases that are sent up and to pass sentence whether the parties will prosecute or not and if the Prosecutors can be compelled to prosecute, or whether in such cases the Government Vakeel should be empowered to prosecute in the room of those declining:- the Judges desire the several Provincial Courts will instruct the Criminal tribunals in their respective Divisions that it is illegal to admit any compromise in cases of a heinous nature, in which descriptions are included all cases forwarded to the Criminal

F. U.
27th August 1829.

Court.- If the complainant declines to prosecute, the Government Vakeel should be directed to conduct the prosecution, and with reference to complaints maliciously false- A Regulation is preparing, and likely soon to be promulgated- providing for the punishment of persons preferring such complaints.

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Southern Division desiring them to make the necessary communications- precept returnable within two weeks from the date of its receipt.-

(Sent following Precept No. 328

Ordered further that Para 5 be forwarded to the Provincial Courts of Circuit in the Northern, Centre and Western Divisions desiring them to circulate the same for the information and future guidance of the several Criminal Judges in their respective Divisions.-

(Sent following letters No. 329

24th U

W. Johnston-

27th August 29 27.

Salem

Pimbat

F. H.

21

At a Court of the Foujdaree Adaulut.

Present,

Saturday, 29th August, 1829. F. A Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

Mr Grant and Mr Oliver.

Read letter dated the 1st April last from the Acting First Judge on Circuit in the Northern Division, with record of the trial in case No 1 Nellore Supplemental Calendar 1st Sessions 1829.

(Here enter No 169)

The First and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner

"Somanty Vencateegadoo,"

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 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 330

Mr Grant Mr Cochrane & Mr Oliver.

Read letter dated the 22d May last from the Third Judge of the Court of Circuit in the Western Division, transmitting the Record of trial in Case No 6

of

29th August

29th August 1829.

unexplained, and though the Judges do not suppose that he would have disappeared "if he had been desirous of giving false evidence against the prisoners," they think it very possible that his absence might be occasioned by his unwillingness to incur the risk of repeating the evidence he had already given - The only other eye - witness is the 11th and the weight of his evidence is very much diminished by his failure to name the prisoners as the murderers on his arrival at the village, or until he was examined by the Fakirdar who had taken the prisoners into Custody on vague reports that they were at enmity with the deceased - Besides he never makes any mention of the 2nd Prisoner - No possible inference against the prisoners can be drawn from the alleged measurement of foot-steps near the scene of the murder, for it appears that the length only, and not the breadth, was taken - The evidence respecting the clothes is altogether unsatisfactory, and indeed inconsistent with itself - In the opinion of the Judges therefore, the evidence for the prosecution is insufficient for the conviction of the prisoners, even if it had not been met by evidence on their behalf - Their witnesses however seem to be guilty as respectable as

Salem

Coimba

F. H.

29th August 1829

as those on the other side, and it must be admitted that the weight of evidence is in favour of the prisoners - The declaration of the 3rd prisoner is anything but a confession of the murder, and compared with the deposition of the witness Muggia Dasseygadoo before the Police Officer (Page 19) and before the Criminal Judge (Page 19), it raises a suspicion that art and contrivance were resorted to for the purpose of making out the case against the prisoners - On all these grounds the Judges have resolved on their unconditional release -

Ordered that a extract of these proceedings be furnished for the information of the Third Judge late on Circuit in the Centre Division :-

Sent following letter No 332

Read letter dated the 11th May last from the Third Judge of the Provincial Court of Circuit in the Northern Division, submitting case No 13 Rajahmundry Calendar 2nd Sessions 1828 :-

(Bne enter No 284)

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 Coozat and Mooftees of the Sudder Adawlut confirm

of the Auxiliary Court zilla Malabar
Second Quarterly Sessions 1829.

(Herewith No 309.)

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 Cazeecool Coyat and Moofties of the Foujdaree Adaulut, confirm the said futwa of the Cazeecal Coyat and Moofties aforesaid, and under the provisions of Section X Regulation VIII of 1802, adjudge the prisoner

1st "Chandotta Koonjamboo"

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

(Sent following letter No 336.)

Salem

Read letter dated the 23rd March last, from the Third Judge on Circuit in the Centre Division, with record of the trial in case No 1, Coddapah Calendar, 1st Sessions 1829.

(Herewith No 309.)

Coimbatore

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 Cazeecool Coyat and Moofties of the Foujdaree Adaulut, confirm such part of the said

29th August 1829.

said futwa as acquits the prisoners

1st "Cheetteboyena Yerravadoo"

2nd "Coomara Candadoo," and

4th "Caramalu Tippadoo,"

and direct that they be set at liberty. And being of opinion that the prisoner,

3rd "Mala Basaviegadoo"

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 acquit him also and direct that he be set at liberty.

In this Case there is a very strange omission. None of the inferior tribunals seem to have thought of enquiring whether the deceased was robbed or not, tho' this was a point of the first importance with reference to the evidence against the prisoners. If there was no robbery, the murder must be attributed to motives of enmity or revenge, and then the evidence to prove that the prisoners were at enmity with the deceased and had threatened to take his life, would weigh strongly against them. As the case now stands, the Judges do not think the evidence to this point deserving of much consideration. The disappearance of the 1st Witness for two Sessions is suspicious. It is wholly unexplained

29th August 1829.

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

1st "Sagara Rainanaikoodoo,"

of the charge of Murder but convicting him of the crime of wounding, and under the sentence of Lahoo but declared in the said futwa, do, in conformity to the provisions of Clause Third Section VII Regulation XV of 1803, adjudge him to receive one hundred and fifty lashes with a cat of nine tails 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 twelve years.-

The Judges consider the evidence in this case, respecting the manner in which the two deceased persons came by their death, to be too defective to warrant their sentencing the 1st prisoner to capital punishment. In fact so far as the evidence on the trial goes, it shews only that these two persons were found killed, and the Judges are not sure, nor indeed is there any thing to justify them in presuming, that this prisoner approached that spot where they were killed in his career. The spot, for all that appears to the contrary, might be completely out of his way, and the two men might have been killed by others totally unconnected with the

29th August 1829.

the prisoner. The depositions before the Criminal Judge go to shew that the two deceased were on guard somewhere near Lutchmee Cauntamah's lodging, from which it is plain the 1st prisoner issued, according to his declaration before the Magistrate, but nothing of this appears on the trial. It appears to the Judges that they must acquit the prisoner of the Murder, but rest of the charge is clearly made out against him.-

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

(Sent following letter No 333

Read the second futwa delivered in case No 9 Malabar Calendar 1st Sessions 1829, by the Cazee ool Coozat and Mooftees of the Sudder Adawlut.

In commutation of the penalty of Deyut declared in the foregoing futwa, the First, Second and Third Puisne Judges do sentence the said prisoner,

"Poliel Thoridee Caothy"

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

of

27th August 1829.

29th August 1829.

29th August h

of one year.

Ex. Sd.

(Sent following letter N. 334)

but for the evident misconception

F. U.

At a Court of the Fouidaree Adalut

Present,

Monday,
31st August, 1829

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

Read letter dated the 12th instant from the Provincial Court of Circuit in the Western Division, submitting the Reports prescribed by Section XXXV Regulation X of 1816 from the several Criminal and Joint Criminal Judges in the Division for the Month of June last together with their proceedings thereon.

(Here enter N. 320)

Bonoare

The Judges desire that the prisoner in case N. 50 of the Report N. 5 submitted by the Joint Criminal Judge of Canara be forthwith released if still in confinement or should the fine imposed by Joint Criminal Judge have been paid, that it be immediately refunded.

The Cheekler in refusing to work for the Sub Collector Mr. Lewin committed no offence, - he is of course at liberty to work for whom he pleases. And to punish a tradesman for refusing to work is illegal.

The Section and Regulation quoted by the Joint Criminal Judge under

Sect. VII Regn. of 1810

31st August 1829.

under which he considered himself authorized to pass such a sentence, is not in any way applicable to the case.

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Western Division desiring them to make the necessary communication to the Joint Criminal Judge of Canara. Process returnable within two months from and after its receipt.

Sent following letter No. 335

Read letter dated the 22nd Instant from the First Judge late on Circuit in the Western Division, with a returned warrant for execution of the prisoner Vayakoottatil Iniz in case No. 29 Malabar Calendar 1st Sessions 1829.

(Here enter No. 530)

Read letter dated the 25th Instant from the Second Judge late on Circuit in the Southern Division, forwarding the Warrant issued to the Criminal Judge of Salem for the execution of the prisoner in case No. 21 of the Calendar for the 1st Sessions of 1829.

(Here enter No. 535)

J. H.

At a Court of the Foujdaree Adalut

Present.

Friday, 4th September, 1829. F. A. Grant Esqre. 1st Puisne Judge
James Cochrane Esqre. 2nd Puisne Judge
William Oliver Esqre. 3rd Puisne Judge.

Read letter dated the 2nd July last from the First Judge on Circuit in the Northern Division, forwarding the record of the trial in case No. 5 Rajah Mundry Calendar 1st Sessions of 1829.

(Here enter No. 435)

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 Adalut concur in opinion with their Law Officers that the proof against the prisoner

Sulloodoo Sutteegadoo"

is sufficient to commit him of the crime of Murder, but considering that under all the circumstances of the case, the punishment to which he is liable under the sentence of Bhysas declared in the said futwa of the Cazee ool Coozat and Mooftees aforesaid, would in the evident misconception

31st August 1829.

6th September, 1829.

in this instance he has done, the authority with which they are invested by Clause Second Section VI. Regulation of 1825, adjudge him to receive nine and fifty lashes on the naked back and to be transported to such place beyond sea as the Governor in Council shall appoint, there to remain and kept to hard labor on the public roads or other public works for and during the period of his natural life.

(Sentence suspended pending reference)

F. H.

At a Court of the Foujdaree Adaulut,
Present,
F. A. Grant Esquire,
James Cochrane Esquire,
William Oliver Esquire,
Judges.

Monday 7th September 1829

Read letter dated the 1st inst. and received on the 18th ultimo, from the Third Judge late on Circuit in the Centre Division, with an English translation of the evidence in Case No. 10 of the Cuddapah Calendar for the First Sessions of 1829, called for in the 3d Para. of this Court's proceedings under date the 16th April last.-

(Here enter No. 511)

From the extracts which have been sent up by the Third Judge, it is impossible to understand upon what parts of the prisoners depositions respectively before the Criminal Judge, the perjury of each prisoner was assigned. For the Court of Foujdaree Adaulut therefore to judge whether the evidence is or is not sufficient to convict them, is out of the question. They cannot do it without being in possession of the entire record of the trial, which they accordingly resolve to direct the Third Judge to furnish.-

Ordered that extract of these proceedings be sent to the Third Judge late on Circuit in the Centre Division by perceipt returnable without delay.-

(Sent following perceipt No. 343)

Read letter dated 30th July last from the Acting Judge on Circuit in

but for the evident misconception

27th August 1829.

7th September 1829. in the Southern Division, with the /English/ record of the trial in Case № 15 of the Madura Calendar for the Second Sessions of 1829.-

/Here enter Rs. 490/

Ordered that the Acting Judge be directed by Precept to furnish the Persian translate of the said trial without delay.-

/Sent following precept № 344/

Read letter dated 24th July last from the First Judge late on Circuit in the Western Division, with an English translation of the proceedings in Case № 4 on the Supplemental Calendar of the Canara Auxiliary Court Calendar at the First Sessions of 1829.-

/Here enter № 491/

The prisoner in this case, named Oneappa, was tried under date the 13th May 1829, for the crime of Arson; and the First Judge states that his opinion in concurrence with that of the Law Officer, is that the prisoner was insane at the time he committed the act charged. Had the proceedings on this trial been conducted agreeably to this Court's Circular orders of the 1st June last, the prisoner would have been acquitted, and his acquittal would have been recorded in the usual manner, because, under those orders, as well as under the former ones which were merely repeated by them, the Judge presiding must have previously satisfied himself that the prisoner was sane at the time he was brought to the bar. In the present case however, there does not appear to have been any preliminary investigation as to the prisoner's state of mind when put on his trial; and it is probable that the First Judge considered

7th September 1829. considered this unnecessary in consequence of the Joint Criminal Judge having reported to him, only the day before the trial took place, that the prisoner seemed to be rational - Now that he has been tried, tho' irregularly, of course no further proceedings can be held - and assuming that the prisoner was then, and now is, of sound mind, and that he has friends who are willing to take charge of him and to see that he does no future harm, as would appear from the examination of his brother before the Joint Criminal Judge, the Judges of the Sudder Adalut do not consider that they would be justified in ordering the prisoner's removal to and confinement in the Jail at Bangalore as recommended by the First Judge - It appears rather to be the proper course to direct that if the Joint Criminal Judge sees no reason to apprehend any danger to the community from the prisoner's release, and his friends will be responsible for his safe keeping, that Officer should be authorized to set him at liberty forthwith.-

The Judges observe an irregularity on the part of the Joint Criminal Judge, in his proceedings in this case, which they direct may be brought to his notice - Instead of examining afresh, and in the regular manner, of the witnesses for the prosecution who had been forwarded to his Court, the Joint Criminal Judge contented himself with causing their previous examinations taken by the Police Officer, to be read over to and admitted by them, a course highly objectionable; and of which no officer employed in the Judicial Department so long as the Assistant Judge should have been ignorant.-

Ordered that extract of these proceedings be transmitted to the First Judge late

7th September 1829.

late on Circuit in the Western Division for his information and guidance, and that he be directed to furnish such parts as concern that Officer, to the Joint Criminal Judges of Honore.- Receipt returnable without delay.-

/Sent following precept No. 345/

Read letter from the Magistrate in Canara, respecting the power of a Magistrate to inflict corporal punishment on a slave, to compel him to work for his Master.-

/Here enter No. 518/

The Judges are clearly of opinion that the Magistracy do not possess power to inflict any punishment, except in the cases expressly specified in the Regulations.- and they regret that the Magistrate of Canara has allowed his zeal to exceed the limits which the Law prescribes to his authority.-

The Judges at the same time are by no means prepared to admit, that the Magistracy cannot enforce and uphold the necessary authority of a Master over his Slave.- But this can only be done by forwarding any contumacious slave to the Criminal Court, who, under section VII Regulation X 1816, and the orders of this Court of the 28th January 1828 will, in that event, question their Law officer, whether or not the offence with which the slave is charged is punishable under the Mohummudan Law.- and proceed accordingly.- In the event of a negative reply, the Judges consider the subject of sufficient general importance to direct that the circumstances of the case may be reported to the Provincial Court, for the information and consideration of this Court. The Magistrate will transmit to the Provincial Court copy of his letter, of

irregularly, forwarded to this Court direct.-

Ordered that extract from these proceedings be forwarded to the Provincial Court in the Western Division, for the information and guidance of the Magistrate, and Criminal Judge in Canara.-

/Sent following letter No. 346./

Read letters dated respectively the 3d and the 4th of June last, from the Third Judge late on Circuit in the Northern Division, with English translations of the proceedings in Case No. 10 of the Rajahmundry Calendar, and in Case No. 1 of the Supplemental Calendar at the same station, for the second Sessions of 1828, called for in this Court's proceedings of the 18th February.-

/Here enter Nos. 353 & 354/

The Court having attentively considered the proceedings in the two trials abovementioned, together with the explanations contained in the letters accompanying them, see no reason to disturb the sentences of which were passed in either case.-

Read letter dated the 8th July last from the First Judge on Circuit in the Western Division submitting the proceedings in case No. 3 of the Supplemental Calendar of Honore 1st Sessions of 1829.-

Mr. Grant. and Mr. Oliver.-

/Here enter No. 482/

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-Cozat and Mooftee of the Bydaree Adalut, confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, and acquit the prisoner "Sheevapah," but considering him an unfit person to

7th September 1829 to be at large, except that he be detained in custody, until in the opinion of the Criminal Judge, founded on the report of the Medical Officer, he may be released without danger to the community, or until trustworthy persons can be found to undertake such charge of him as may prevent his doing further mischief.-

In this Case also the prisoner Cheenapah, ought not to have been tried. There is abundant proof that he was insane when the act charged was committed; but of his present sanity there is no other proof than his own declaration to the Joint Criminal Judge. It is indeed expressly stated by the First Judge in his letter accompanying the trial, that he deems it probable his disorder is curable; and in one point where he describes the advantage that would attend the prisoner's removal to the Mangalore Jail, he even speaks of him as "this madman". The Judges have therefore no alternative but to authorize his detention in that Jail in the manner suggested by the First Judge. The Judges remark that this trial took place previously to the orders issued by them on the 5th June last but they desire Mr Cunningham will for the future be strictly guided by the directions therein contained; which in fact were a mere recapitulation of those formerly issued.-

Ordered that extract of the proceedings be transmitted to the First Judge late on Circuit in the Western Division for his information and guidance.-

/Sent following letter No 347/

7th September 1829.

Read letter dated 31st Ultimo from the 2d Judge of Circuit in the Centre Division transmitting the Warrant issued in Case No 1 of the Cumbum Calendar of 1st Sessions of 1829.-

/Here enter No 539/

Read letter dated 28th Ultimo from the First Judge late on Circuit in the Western Division transmitting the warrant issued in Case No 1. of the Malabar Calendar for the 1st Sessions of 1829.-

/Here enter No 543/

F. C.

At a Court of the Fujdaree Adaulut
held at
Cuttack,

Thursday,
16th September,
1824

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

Read letter dated the 15th July last from the First Judge late on Circuit in the Northern Division with record of the trial in Case No 1 Rajahmundry Calendar 1st Sessions 1824.

Mr Grant and Mr Oliver.

244

150

(Seer entry No 443)

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 Fujdaree Adaulut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and acquit the prisoner,

"Khundavelly Vencatadagadoo,"

but direct that he be detained to take his trial on the charge of having escaped from Jail.

The Court trust that the First Judge late on Circuit has

has brought to the notice of the Magistrate of Rajahmundry the grossirregularities of the Police Officers of Dhurmanicum and Pittapoor in taking the alleged confessions of the prisoner, pointed out in the 20th Paragraph of the letter accompanying the trial.—

Ordered that extract of the proceedings be furnished for the information and guidance of the Joint Judge late on Circuit in the Northern Divn.

(Sent following letter No 352

Read letter dated the 31st ultimo from the Magistrate of Canara, with copy of a correspondence between himself and the Joint Criminal Judge at Honawar.

(Here enter No 549)

These papers have reference to certain proceedings and correspondence between the said Joint Criminal Judge and the Joint Magistrate in charge of the same district, of which the latter is stated by the former Officer, to have been submitted by him to the Provincial Court in the Western Division.—

Ordered that the said Provincial Court be called upon to send forward without delay to this Court a copy of the reference in question, with their

their opinion thereon, and that they be at the same time furnished with a copy of the above letter from the Magistrate of Canara, which should have been submitted through their Court.—

Sent following letter No 353

Read return dated the 22nd ultimo from the Judges of the Provincial Court, in the Southern Division, to precept dated 10th ultimo desiring them to communicate to the Criminal Judges of Madura and Combaconum and to the Magistrate of Madura the observations of this Court on their Criminal Reports for May last.—

(Here enter No 529)

Read letter dated the 19th ultimo from the Second Judge on Circuit in the Western Division, transmitting copy of Malabar Calendar 2nd Sessions 1829.—

(Here enter No 581)

Read letter dated the 1st Instant, from the Second Judge on Circuit in the Northern Division reporting the opening of the Sessions at Guntoor.—

(Here enter No 550)

Read

Madura
6th September 1824.

Read letter dated the 5th Instant from the Acting Judge on Circuit in the Southern Division, stating that the Joint Criminal Judge of Madura has been desired to enforce the conditions of the Bond entered into on behalf of the prisoner in case No 7 of the Madura Calendar—

(Here enter No 558)

Read letter dated the 4th Instant from the Judges of the Provincial Court of Circuit in the Southern Division forwarding copy of a letter from the Assistant Criminal Judge of Madura stating the circumstances under which the Assistant Criminal Judge passed sentence on the prisoner in case No 1 of the Criminal Report for the month of May last—

(Here enter No 559)

Jaffna

Monday
11th September, 1824.

At a Court of the Faujdaree Adalut.

Present

T. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge.

Read letter, dated the 2nd July last, from the First Judge on Circuit in the Western Division, with record of the trial in case No 1 Canara Calendar 1st Sessions 1824—

(Here enter No 425)

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 Cozat and Mooftees of the Faujdaree Adalut, confirm the said futwa of the Cazee ool Coozat and Mooftees aforesaid, and convict the prisoner,

"Stannich-Rayo,"

of murder, but being of opinion that the punishment to which he is liable under the sentence of Kisas as declared in the futwa, would in this instance be too severe, do, under the authority with which they are vested by Clause Second Section VI Regulation I of 1825 adjudge the said prisoner to be transported to

to such place or places beyond Sea as the Governor in Council shall appoint there to be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of his natural life.-

There can be no doubt of the prisoner's guilt, and the Judges think that transportation for life is the mildest sentence they are justified in passing. They cannot concur in a mitigation to the extent recommended by the Circuit Judge.-

Ordered that extract of these proceedings be furnished for the information of the First Judge late on Circuit in the Western Division.

(Sent following letter No.354

Read again letter dated the 28th May last from the Third Judge on Circuit in the Centre Division, transmitting the proceedings in case No.2 of the Criminal Calendar for the 1st Sessions of 1829.

(See entry No.319)

Read also return dated the 31st ultimo from the Third Judge late on Circuit in the Centre Division to precept dated 11th ultimo directing him to

to report fully on the Prisoner Mootoo Pandarum's state of mind at the time of the Commission of the murder.-

(See entry No.541.)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the Letter of the Provincial Law Officer and the Letter of the Cazee aul Cozat and Mooftees of the Pungarree Adalut as well as the return made by the said Circuit Judge to their precept of the 11th August 1829 confirm the said finding of the Cazee aul Cozat and Mooftees aforesaid convicting of murder, and awarding his sentence, and under the provisions of Section X. Regulation VIII of 1802 adjudge the prisoner,

"Mootoo Pundarum",

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

(Sent following letter No.355)

Read return dated the 31st ultimo from the Provincial Court of Circuit in the Centre Division, to precept dated

dated 24th ultimo containing the observations of the Foujdaree Udalut on the Criminal reports for the Month of June last.

(Here enter No 561)

Read letter, stated the 1st Instant from the Third Judge of the Court of Circuit in the Western Division submitting copy of the Calendar of the Auxiliary Court in the Zillah of Malabar for the 3rd Quarterly Sessions of 1829 with copies of the original Criminal Returns &c.

(Here enter No 561)

Read return stated the 4th Instant from the Third Judge late on Circuit in the Central Division, to precept dated 15th ultimo directing him to send up within fifteen days the trials on the Chingleput Calendar which are under reference, explaining the cause of delay and requesting that they will be dispatched with as much expedition as possible.

(Here enter No 675)

At a Court of the Foujdaree Udalut,

Present

Saturday 19th September 1829

F. A. Grant Esq.re
James Cochrane Esq.re
William Oliver Esq.re
} Judges.

24
W. O.

Read letter dated 25th February last from the Second Judge of the Court of Circuit in the Western Division submitting the proceedings in Case No. 10. on the Calendar of the Auxiliary Court Zillah of Malabar first Quarterly Sessions 1829.

(Here enter No. 143)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

"Peediga Vallapil Eyanoo,

is sufficient to convict him of the crime of Murder, so, under the authority with which they are vested by clause First section III Regulation II 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.

However painful it might have been to receive the evidence of a Mother against her son, the Second Judge erred greatly in dispensing with the then evidence in this case - It was of the utmost importance on many accounts. The confession before the Sahibdar has certainly not been proved and the Judges have therefore thrown it

19th September 1829. it out of consideration altogether. - They direct that that Officer may be reprimanded for the negligent manner in which it was attested. -

Ordered that extract of these proceedings be furnished for the information and guidance of the Second Judge of Circuit in the Western Division

/Sent following letter N°/

Read letter dated 6th July last from the First Judge on Circuit in the Western Division with record of trial in Case N°. 18 Malabar Calendar 1st Sessions 1829. -

/Here enter N° 436/

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: Ezat and Mooftee of the Foujdaree Adalut convict the poinsoneks,

1st "Ambayakandy Kelloo",
2d "Kanat Rama Koorpoo",
3d "Satatil Komoo",
4th "Koonata Kandan",
5th "Bunakel alias Ellany Kandana",
6th "Karoomparambata Ramichen Kai"

of the crime of Robbery by open Violence and under clause 2nd section IV Regulation XV of 1803 do adjudge them to receive each one hundred lashes with a cat of nine tails, 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.

/Sent following letter N°/

Eyre M.J.

F.R.

At a Court of the Foujdaree Adalut

Present,

Thursday 24th September 1829. } F. A. Grant Esquire, - - - James Cochrane Esquire, - - William Oliver Esquire, } Judges.

Read letter dated the 9th Instant from the Provincial Court of Circuit in the Centre Division submitting the Reports prescribed by Section XXXV Regulation X. of 1816 received from the several Criminal and Joint Criminal Judges in the Division for the month of July last, together with their proceedings thereon. -

/Here enter N° 576/

The two first poinsoners in cases N°. 6 and 7 of the Supplemental Report, submitted by the acting Criminal Judge of Cuddapah, appear to be the same persons and to have received a separate Sentence on each of the charges preferred against them: - The Judges desire the Provincial Court will apprize this officer of that, agreeably to the Circular Orders of this Court, he should have passed but one sentence upon all of the charges proved against them. -

Cuddapah.

2. The Judges desire the Provincial Court will direct the acting Criminal Judge of Bellary to complete the sentence passed by him on the poinsoner in Case N°. 9. of his Report N°. 5 by recording the period for which the Securities will be held responsible for the poinsoners good behaviour. -

Bellary.

Ordered that Extract from these proceedings be forwarded to the Provincial

24th September 1829. Provincial Court of Circuit in the Centre Division desiring them to make the necessary communication to the Acting Criminal Judges of Cuddapah and Bellary- jointly except returnable within one Week from and after its receipt.

Sent following Receipt No 362

Read letter dated the 3d Instant, from the Provincial Court of Circuit in the Centre Division, forwarding copy of a communication from the Magistrate in the Northern Division of Arcot with a translation of an Arzee to his address from the Zemindar of Calastry, requesting to be relieved from the personal performance of the Police duties.-

/Here enter No 551/

Read also petition presented by Tirumulrow Vakeel in behalf of the said Zemindar, making the same application to this Court.-

/Here enter R. P. No 20 of 1829/

The Court entirely concur in the opinion expressed by the Judges of the Provincial Court that the alternative proposed by the Magistrate of North Arcot, viz. of the Zemindar's either superintending in person the duties of Police, or of his forwarding to the Magistrates' Court the amount of monthly pay of a Native Head of Police to be appointed and paid by the Magistrate, could not with propriety be given to the Zemindar; for this would be to tax him with the expense of the police, contrary to the implied, if not the expressed, pledge, given at the period of the permanent settlement. If the arrangement detailed in this Courts letter to Government of the 22d December 1828 is properly explained

24th September 1829. explained to the Zemindar, he will see that it imposes hardly any personal trouble, the detailed duties devolving on those under him -, and that he is no more subject to answer unfounded complaints, than the Magistrate himself-, who may be prosecuted in the Civil Court. If however the Zemindar declines to execute the police duties, or the Collector deems it inexpedient to entrust them to him, there seems no alternative but the appointment, or re-establishment, of Police Ameens by the Magistrate, under the authority contained in the latter part of Section XXXVIII Regulation XI of 1816 at the expense of Government.-

Ordered that extract of these proceedings be transmitted to the Provincial Court of Circuit in the Centre Division to be communicated, together with a copy of their letter to this Court received above, for the information and guidance of the Magistrate in the Northern Division of Arcot.-

/Sent following letter No 363./

Ordered also that the same be communicated to the Vakeel for the Zemindar.-

Read letter dated the 11th Instant from the Provincial Court of Circuit in the Northern Division submitting the Reports prescribed by section XXXV Regulation X of 1816 received from the several Criminal and Joint Criminal Judges, in the Division for the month of July last together with their correspondence thereon.-

/Here enter No 575/

Nellore

The Judges have remarked that a delay of 2 months and 3 days has taken place in the transmission of the Prisoners

24th September 1829. in Case No. 7 of the Report No. 5, and a delay of 27 days in forwarding the prisoner in Case No. 8 of the same report, to the Criminal Court. The attention in both these cases appears to have been occasioned by reparations being made to the Magistrate, the irregularity of which proceeding was pointed out to the Magistrate of Nellore in an extract from this Court's proceedings dated the 25th of May last, and to the orders contained therein the Judges desire the Provincial Court will again call the special attention of the Magistrate.-

Guntoor. 2 Referring to Case No. 3 of the Report No. 5 submitted by the Criminal Judge of Guntoor, the Judges observe that the prisoners "charged with having killed "a Cow belonging to the Prosecutor, valued "at 12 Rupees" have been committed to take their trial before the Court of Circuit.- from the record it is not apparent upon what grounds the Criminal Judge has committed these prisoners to take their trial before the Court of Circuit; it is neither stated that they are old offenders, nor that any circumstances of aggravation existed, for which the prisoners would merit a severer punishment than a Criminal Judge is authorized to inflict.- Should no causes have existed sufficient to warrant their committal, the Judges desire the Criminal Judge will dispose of the charge according to the provisions of the Regulations enacted for his guidance in such cases.-

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Northern Division desiring them to make the necessary communications to the Magistrate of Nellore

F. 6.

24th September 1829. Nellore and to the Criminal Judge of Guntoor precept returnable within 1 Week from and after its receipt.- (sent following precept No. 364)

Read letter from the Provincial Court in the Western Division, submitting copy of a communication from the Criminal Judge of Malabar, with reference to the observations recorded by them, on his returns of the state of Criminal business, in his Court, during the month of July 1829.- (Here enter No. 563)

1. The Judges of the Foujdaree Adalut have attentively considered the whole of the proceedings of the Provincial Court of the 27th August last, to which the Criminal Judge objects. as well as their proceedings of the 10th of that month, on the state of the Civil file of Malabar, during the months of April, May and June last, referred to in this correspondence.-

2. During that quarter, not a single civil suit was decided, either by the Judge or Register;- and during the month of July, not a single criminal case was disposed of out of 23 received in that month including 49 prisoners. The criminal cases decided by the two European authorities in July consisted of 6 cases including 18 prisoners sent in during the previous month of June- still leaving of those sent in during that previous month 6 cases and 25 prisoners undisposed of, to be added to the 23 cases including 49 prisoners received in July, forming a total of 29 cases and 74 prisoners unexamined.

3. Making every allowance for the miscellaneous duties of the Civil Court which are no doubt onerous in Malabar this is a state of business, both in the Civil

Civil and Criminal department, in the highest degree unsatisfactory, as regards the public interests; - and the Superior Court would not have performed its duty, had it failed by its remarks, to stimulate the judge, to increased exertion. -

4. In performing this duty, the Provincial Court in the Western Division have not perhaps gone so far as the occasion would have justified, and have expressed themselves in terms of courtesy. Nothing, it is hoped, could have induced the hasty remonstrance which the Criminal Judge of Malabar has ventured to make against their highly proper orders, than his total misconception of the authority vested in the Provincial Court. -

5. In requiring the statements of the criminal and Zillah Courts to be forwarded through the Provincial Courts, it was the intention of the Government to delegate to the Provincial Courts, possessing greater local knowledge, and more immediate personal control, the authority vested in the Sudr and Foujdaree Adalut, subject of course to their general revision and superintendence; and though the Zilla and Criminal Judges possess the right of Appeal to the Superior Court at the Presidency, it ought ever to be exercised with caution and discretion, with great deference and respect for the higher and more experienced tribunal whose decision may be impugned, and never except on occasions of public importance. -

6. The Judges consider the communication now before them made by the Criminal Judge in Malabar to have been totally uncalled for by the circumstances under which it was written; and

24th September 1829. and, but for the evident misconception of the framers of the Provincial Court under which it has been passed, they should have considered it their duty to bring it to the most serious notice of the Right Honorable the Governor in Council.

7. The time of the Judges in the Court, and in the Provincial and Criminal Courts, even if incessantly devoted to the furtherance of justice to the people, is insufficient to attain that object, with sufficient celerity, and their efforts to effect this should not be interrupted by the intrusion of fruitless discussions, respecting trivial matters. -

8. In the Western Division, the Judges of the Sudr Adalut have remarked, of late, a very general inclination to such idle controversy. Men in important public offices ought to emulate each other in courtesy, forbearance, and temper and subordinate officers ought not to cavil or cavil at any expression, even though open to some objection, which in the haste of writing may find its way into the orders of their superiors or evince a coolness and tendency to take unnecessary offence, when the higher Court is bound to use the language of expostulation or censure. Reproof is in itself so unpleasant, that it naturally seeks to clothe itself in courteous language - and even where remonstrance would be justifiable, silent obedience is the more becoming, especially when personal feeling alone is involved, and no great public object is at issue - to call for or justify it. -

9. But the proper functions

of

and

Civil and Criminal department, in the highest degree unsatisfactory, as regards the public interests;- and the superior Court would not have performed its duty, had it failed, by its remarks, to stimulate the judge, to increased exertion.-

4. In performing this duty, the Provincial Court in the Western Division have not perhaps gone so far as the occasion would have justified, and have expressed themselves in terms of courtesy. Nothing, it is hoped, could have caused the hasty remonstrance which the Criminal Judge of Malabar has ventured to make against their highly proper orders, than his total misconception of the authority vested in the Provincial Court.-

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24th September 1829. and, but for the evident misconception of the framers of the Provincial Court under which it has been penned, they should have considered it their duty to bring it to the most serious notice of the Right Honorable the Governor in Council.

7. The time of the Judges in the Court, and in the Provincial and Criminal Courts, even if incessantly devoted to the furtherance of justice to the people, is insufficient to attain that object, with sufficient celerity, and their efforts to effect this should not be interrupted by the intrusion of fruitless discussions, respecting trivial matters.-

8. In the Western Division, the Judges of the Sudr Adalut have remarked, of late, a very general inclination to such idle controversy. Men in important public offices ought to emulate each other in courtesy, forbearance, and temper and subordinate officers ought not to cavil or cheer at any expression, even though open to some objection, which in the haste of writing may find its way into the orders of their superiors or evince a soreness and tendency to take unnecessary offence, when the higher Court is bound to use the language of exhortation or censure. Reproof is in itself so unpleasant, that it naturally seeks to clothe itself in courteous language - and even where remonstrance would be justifiable, silent obedience is the more becoming, especially when personal feeling alone is involved, and no great public object is at issue - to call for or justify it.-

9. But the proper functions

of

and

24th

24th September 1829

of this Court have been so much interrupted of late, by troublesome references from the Western Division involving mere personal disputes and petulent differences that they find it now necessary to direct the Provincial Court in the Western Division to caution the Courts, and the Magistracy under them, of their determination on the next occurrence of such proceedings, to recommend to Government that the blameable party or parties be removed, as an example to others.

Ordered that the same be communicated to the Provincial Court in the Western Division for the information of all the officers under them.-

/Sent following letter No 365/

Read letter dated 14th Instant from the 2d Judge on Circuit in the Western Division bringing to the notice of this Court that no final sentence has been passed on the prisoner in Case No 10 on the Calendar for the first Quarterly Sessions of 1829.-

/Here enter No 592/

Read letter dated 17th Instant from the 3d Judge of the Court of Circuit in the Western Division forwarding the warrant issued for the execution of the prisoner in Case No 6 of the Calendar second Quarterly Sessions of 1829 of the Auxy Court Zillah of Malabar.-

/Here enter No 591/

Read return dated 16th Instant from the First Judge late on Circuit in the Western Division to precept dated 7th Instant directing the release of the prisoner Oencata in Case No 4 of the Supplemental Calendar of the Auxiliary Court at Cannara 1st Sessions of 1829, provided his release will not be attended with any danger to the community.

/Here enter No 588/

29

F H

At a Court of the Dewanny Adawlut

Present,

Wednesday, 30th September 1829.

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

Read letter dated the 7th July last from the First Judge on Circuit in the Western Division, submitting the proceedings in case No 20 Sea Ca bar Calendar 1st Sessions 1829.-

(Here enter No 453)

The Judges desire their Law Officers will declare, by a second futwa, to what specific punishment the first prisoner would be liable under the Mohummudan Law, if Kidol had not been learned by the property not reaching the standard of the Nisab, as stated in the foregoing futwa.-

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

Read letter dated the 2nd July last from the First Judge on Circuit in the Western Division with record of the trial in case No 2 Additional Calendar of the Zilla of Malabar 1st Sessions 1829.-

(Here enter No 426)

&c

30th September 1829.

The First, Second and Third Puisne Judges having maturely considered the proceedings laid before the Judge on Circuit the Opinion of the Provincial Law Officer and the Opinion of the Cazee ool Coozat and Mooftee of the Tribunal Adawlut, confirm the said Opinion of the Cazee ool Coozat and Mooftee aforesaid, and acquitting the prisoners,

1st Valan Chalil Chapan,"

and

2nd " Eroman Nair,"

direct that they be set at liberty.

The Judges consider the evidence in this case before the Court of Circuit as wholly insufficient to warrant a conviction or even a suspicion of the crime charged against the prisoners respectively; though they think the Criminal Judge, on the evidence before him, was upon the whole justified in committing them for trial. It is justly observed in the Futwa, that the several depositions of the first and only eye-witness are inconsistent and contradictory; and it might have been added, that in respect to several collateral facts of great importance, this witness is contradicted by others.

30th Sept.r 1829.

2

The Criminal Judge acted improperly in examining Eroman Nair at such length as a prisoner after he had taken his examination on oath as a witness. He ought simply to have apprised the prisoner of the crime laid to his charge and to have asked him what he wished to say. A severe cross-examination, like that to which this prisoner was subjected, was calculated to wring a confession from him, and though of course this could not have been the Criminal Judge's intention it is quite clear that if the prisoner under these circumstances, had made admissions amounting to a confession of the crime laid to his charge, they could not have been received in evidence against him.

Ordered that an extract of these proceedings be transmitted to the First Judge late on Circuit in the Western Division and that he be directed to furnish a copy of the same for the information of the Criminal Judge in the Zillah

24th September 1829. Civil and Criminal department, in the highest

30th Sept. 1829.

Case 214

V. 20

Zillah of Malabar.

(Sent following letter No. 371.

Read letter, dated the 19th Instant, from the First Judge late on Circuit in the Northern Division, forwarding the original Warrant issued for the execution of the prisoner in case No. 1 Supplemental Calendar 1st Sessions of 1829.

(Vide enter No. 594.)

Read return dated the 18th Instant from the Judges of the Provincial Court of Circuit in the Southern Division to precept dated 27th ultimo directing the Provincial Court to circulate the observations of the Toydaree Vratut on the Criminal Reports for the Month of June.

(Vide enter No. 595.)

Read return, stated the 17th Instant from the Judges of the Provincial Court of Circuit in the Western Division return to precept dated 31st ultimo directing the Joint Criminal Judge of Canara to release the prisoner in case No. 53 of 1829 and to return to him the fine if it had been levied.

(Vide enter No. 598.)

Read letter stated the 25th Instant from the 2nd Judge on Circuit in the Northern Division, reporting his intention to proceed to Masulipatam.

(Vide enter No. 600.)

5th November 1829

V. C.

A Court of the Foujdaree Adalut.

Present,

Saturday, 3rd October, 1829.

T. A. Grant Esqre. 1st Puisne Judge
James Cochrane Esqre. 2nd Puisne Judge
William Oliver Esqre. 3rd Puisne Judge.

214
V
20

Read the second futwa delivered in case No. 20 Malabar Calendar 1st Sessions of 1829. by the Cazee ool Cozat and Mooftee of the Foujdaree Adalut.

The First, Second and Third Puisne Judges having maturely considered the proceedings had before the Judge on Circuit the futwa of the Provincial Law Officer and the futwas of the Cazee ool Cozat and Mooftees of the Foujdaree Adalut, confirm the second futwa of the Cazee ool Cozat and Mooftee aforesaid as regards the prisoner,

1st "Pattatoor Valapil Ikamy,"

and convicting him of the crime of burglary do, in commutation of the sentence of amputation declared in the said second futwa, adjudge him to receive one hundred and fifty lashes with a cat of nine tails 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. The Judges however acquit the prisoner

2nd "Iear Poothaedy Kundoo"

notwithstanding

24th September 1829. Civil and Criminal department in the Highest

30th Sept. 3rd October 1829.

Called 24

nature thereof [illegible]

[illegible] 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 375.

Read letter dated the 18th July last, from the Third Judge tatee on Circuit in the Centre Division, transmitting the proceedings in case No 13 of the Bellary Calendar for the 1st Sessions of 1829.-

(Circuit No 474)

The First and Second 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 convicting the prisoner "Condadaa" of "Homicide by misadventure without any malignant intention," do in consideration of the confinement he has already undergone, direct that he be set at liberty.-

No grant. Mr Cochrane

3rd October 1829.

There seems in this Case to have been a quarrel between the prisoner and the deceased, and when the two were in fighting it is probable that the deceased was wounded by the sickle of the prisoner - though it is possible that the deceased may in the scuffle have received the wound from his own sickle - There appears to have been no malice on the part of the prisoner, and the result of the quarrel might have been his being wounded instead of the deceased - Under these circumstances, and as the prisoner has already been upwards of eight months in confinement the Judges have resolved to direct his release.-

The Court desire that the Third Judge will call the attention of the Magistrate of Bellary to the fact of the Head of Police not having been present when the declaration of the deceased was taken, and of his not having inspected the body.-

Ordered that extract of these proceedings be transmitted to the Third Judge tatee on Circuit in the Centre Division for his information and

24th September 1829 Civil and Cri...

3rd October 1829.

and guidance.—

(Sent following letter No 376

Read return, dated the 5th Ultimo from the Provincial Court of Circuit on the Centre Division, to precept dated 24th ultimo directing them to the Criminal Judges of Cuddapah and Bellary with the remarks of this Court on their Criminal Reports for the Month of July last.—

(Here enter No 605)

Read letter dated the 28th Ultimo from the Judges of the Provincial Court of Circuit in the Southern Division, stating that no information can be obtained respecting the terms on which the Jail at Trichinopoly was rented—that it is not necessary to encrease the quantity of food granted to the prisoners at Madura and submitting a Medical Report of the state of the Salem Jail.—

(Here enter No 606)

F. H.

At a Court of the Foujdaree Udalut

Present,

Monday, 5th October, 1829. F. A. Grant Esqre. 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge.

Read letter dated the 15th June last, from the Third Judge of the Court of Circuit in the Centre Division, transmitting the proceedings in case No 3 of the Cumbum Calendar 1st Sessions of 1829.

(Here enter No 391.)

The First and Second Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the futwa of the Prannicat Law Officer and the futwa convicting of Murder and awarding Kissas, of the Cazee cul Coozat and Mooftee of the Foujdaree Udalut, confirm the said futwa of the Cazee cul Coozat and Mooftee aforesaid, and, under the provisions of Section X Regulation VIII of 1832, adjudge the prisoner

"Tumbadla Bastegadoo,"

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

(Sent following letter No 377.

Read letter dated the 25th Ultimo, from the Second Judge on Circuit in the Northern Division, forwarding the 1st Calendar

6th October 1829.

Calendar of the Gunture 2nd Sessions of 1829
together with the Persian Returns given
in the several cases of the Calendar.
(Here enter No 607)

F. H.

At a Court of the Fojedaree Adaulut

Present

Thursday,
15th October, 1829. F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge.

244
20 H

Read letter dated the 14th Ultimo from the First Judge late on Circuit in the Northern Division in reply to this Court's proceedings on the Chinsurah Calendar for the First Sessions of 1829.
(Here enter No 577)

In the 8th Para of his letter the First Judge states that he "was "not aware that the testimony of a "prosecutor (unless supported by con- "curring evidence) was admissible towards "conviction." He then supposes an instance where "there may be no "more than the prosecutor or injured "party to speak to a fact. The Mahomedan "Law Officer will not convict without "two Witnesses in which Case if the "Court of Circuit are to proceed upon "a different principle, there must be "a departure from the law by which "all prisoners are tried." Again, "the "Judge on Circuit admitting the evidence "of the prosecutor must be guided the

5th October 1829.

15th October 1829.

of Clause 2nd and 3rd of the 43rd Section do hereby require their Law Officers to declare by a second futwa to what specific punishment the prisoners would have been liable under the Mahomedan law if he had been convicted by full legal evidence of the crime aforesaid.

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

Exd "W.L."

F. 16.

At a Court of the Foujdaree Udalut

Present,

Thursday 22nd October 1829 } F. A. Grant Esquire, James Cochrane Esquire } Judges

Read letter dated 5th July last from the 3d Judge late on Circuit in the Centre Division, transmitting the Proceedings in Case No. 3 of the Bellary Calendar for the first Sessions of 1829.

/Here enter No. 464/

The First and Second 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 Udalut, confirm the said futwa of the Cazee-ool-Cozat and Mooftees aforesaid, and acquitting the prisoners,

1st "Yerragadoo",
2d "Caoregadoo",
3d "Oobeegadoo",
4th "Dajeegadoo",
5th "Shunnabhadoo",
6th "and Jumbagooroovadoo",

direct that they be set at liberty.-

/Sent following letter No. 389/

Read letter dated 16th July last from the 3d Judge late on Circuit in the Centre Division, forwarding the proceedings in Case No. 18 of the Cuddapah Calendar 1st Sessions of 1829.-

//Here enter No. 465/

The

5th November 1829- [illegible]

15th October 1829- the opinion delivered by the Law Officer
on any point of Law which may be
submitted to him, "shall appear to the
"Judge contrary to the principles of
"natural justice," or to the Mahomedan
Law.-

Ordered that extract from
these proceedings be furnished to
the First Judge for his information
and future guidance.-

Sent following letter No 379.

Read letter dated the 24th July
last from the 2nd Judge of the Court of
Circuit in the Centre Division, forwarding
the Proceedings in Case No 4 Petition Calendar,
third Quarterly Sessions of 1829.-

(Here enter No 476.)

The First and Second Puisne
Judges on deliberate consideration
of the circumstances of the case in
evidence before them being of opinion
that the proof against the prisoner,

"Undeegadoo,"

is insufficient to commit him of the
crime of wounding, do, under the
authority with which they are vested
by Clause First Section II Regulation
II of 1818, commit him thereof, and
in conformity with the provisions

ZH
U D
Mr Grant.
and
Mr Cochrane.

15th October 1829- "the Futwa, and finally his sentence
"dependantly of the Law Officer's opi
"the case to the Foujdaree Adalut
"referring the 1st Judge does not th
"is provided for any where."-
2. The First Judge subseq
explains that the proceedings of the
Court of the 25th February last were
not in his possession when he deliv
the Court therefore need not refer
the observations recorded in their
proceedings regarding the genuineness
pertinency of a prosecutor's evidence
however cannot help remarking
that in expressing the opinions noticed
above, the First Judge seems to have
overlooked some of the most important
provisions of Regulation VII of 1802
by which the Courts of Circuit were
originally established- Section XVII
provides that the Judges on Circuit
shall refer the trial to the Foujdaree
Adalut whenever he may disapprove
the futwa of the Law Officer, or indeed
any part of the proceedings, and shall
state the grounds of his disapproval;
and the following Section prescribes
the same course to be observed, when the

5th November 1829.

demanded from him is mentioned, but not the

22d October 1829.

The First and Second Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners,

1st "Anoolgadoo,"
2d "Gungoologadoo,"

is sufficient to convict them of the crime of Highway Robbery, do under the authority with which they are vested by Clause First Section II Regulation V of 1818, convict them thereof, and sentence them to receive each one hundred and ninety five stripes with a cat of nine tails 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, as prescribed by Clause Third Section IV Regulation XV of 1803, and Clause Fourth Section II Regulation I of 1825.-

Sent following letter No 390.

F.C.

35

At a Court of the Foujdaree Adaulut

Present,

Friday, 23d October 1829 } F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges

Read letter dated the 28th Ultimo from the Third Judge late on Circuit in the Centre Division, with copy of a return under date the 15th from the Magistrate of Cuddapah on the subject of this Courts proceedings of the 6th August last on Calendar No 35 of the Cuddapah Calendar for the First Sessions of 1829.-

/Here enter No 611/

The Judges have nothing to remark on the letter of the Third Judge nor on those parts of the Magistrates return which have immediate reference to the case above mentioned.- In the two last cases however, Mr Dalzell offers at some length his sentiments on the introduction of trial by Jury as contemplated in Regulation X of 1827, and he concludes with something like an expression of his expectation that from the importance of the subject, this Court will deem it proper to lay them before the Government.-

Were the question under consideration the Judges would readily have complied with this wish, but as it is understood that the subject has been already decided upon by Government who have for sometime past been in possession of all the opinions they called for on the measure, the Judges think it would be out of place to intrude

intrude the subject upon them and they direct that this may be communicated accordingly for Mr. Dalzell's information.-

Ordered that extract of the proceedings be transmitted to the third Judge of Circuit in the Centre Division and that he be desired to furnish a copy of the same to the Magistrate in the Zillah of Cuddapah.-

Sent following letter R 39/

5th November 1829.

F.M.

At a Court of the Foujdaree Adawlut Present:

Thursday 29th October 1829 } F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire } Judges:

Read letter dated 25th ultimo from the Provincial Court of Circuit in the Centre Division submitting the Reports prescribed by Section XXXV. Regulation X of 1816 received from the several Criminal and Joint Criminal Judges in the Division for the month of August last together with their proceedings thereon.-

/Here enter No. 609/

Referring to Case No. 134 of the Report No. 5 submitted by the Acting Criminal Judge of Chittoor, the Judges observe that the prisoner has been ordered "to give security in "200 Rupees for 1 year and in the event "of not giving the same to be impri= "soned for one year," on account of its "having been proved by two witnesses that "he had endeavoured to induce the prose= =cutor not to make a complaint. The Judges desire the Provincial Court of Circuit will direct the Acting Criminal Judge to remit the sentence and release the prisoner unconstitutionally. It is no crime, in an accused person, to endeavour to prevent a complainant from prosecuting him.-

Ordered that extract from these

Chittoor

29th October 1829- these proceedings be forwarded to the Provincial Court of Circuit in the Centre Division desiring them to make the necessary communication to the Acting Criminal Judge of Chittoor- precept returnable within one week from and after its receipt.-

/sent following precept No 393/

1. The Judges are of opinion that it is desirable the several Provincial Courts should observe one uniform system in revising the monthly returns received by them from the several criminal tribunals in their respective divisions. For this purpose, it is resolved to direct them, by precept, to take into consideration, at one and the same time, all the returns made to them, for each month respectively, by the different criminal tribunals;- and to record their observations thereon, not in the shape of a letter, but in the form of an extract from their proceedings- prefixing thereto general abstracts of the whole, in the forms given below.-

2. By this proceeding, the Provincial Court will be able to compare at one view the labour performed by one, with that executed by another tribunal.- They will specially call for explanations when the cases before the Criminal Courts do not appear to be decided with sufficient promptitude;- and before recording their observations on the cases before each Court which may call for remark, they will submit such general remarks as the statements in question may suggest.- They will then record under the head of each Court such observations as the particular cases may call for- and submitting an extract of their whole proceedings, with the usual statements to this Court, they will forward

29th October 1829- forward to the subordinate tribunals the following remarks applicable to each respectively.- The system here laid down is that already in a great degree, followed by the Court in the Centre Division, but the Judges have considered it desirable to establish it universally, and have modified the forms which the Judges then adopted, as follows.-

The following is an Abstract of the Prisoners of the previous Month undisposed of at the close of the Month of ——— 1829.-

	No. of Cases	No. of Prisoners	No. of Prisoners released for want of proof or on security-	No. of Prisoners committed until Sessions	No. of Prisoners punished	No. of Prisoners committed-	No. of Prisoners absd.	No. of Prisoners sent to the Provincial Court of Criminal Judge-	Disposed of:- By the Criminal Judge. No. of Cases	No. of Prisoners	By the Assistant Criminal Judge. No. of Cases	No. of Prisoners	By the Joint Criminal Judge. No. of Cases	No. of Prisoners	Unexamined. No. of Cases	No. of Prisoners
Chittoor	5.	33.	13.	6.	6.	8.	"	"	5.	33.						
Cuddapah	4.	34							2	25.					2	9.
Cumbum	2	20	10	2	4	2		2					2	20		
Bellary	"	"	"	"	"	"	"	"	"	"	"	"	"	"	"	"
Chingleput	5.	21	3	12	6	"	"	"	3	14	2	7				
Total	16.	108	26.	20.	16.	10.	"	2.	10.	72.	2.	7.	2	20.		
								add	2.	7.			carried on to next month.		2	9.
								"	2.	20						
								carried on	2.	9.						
								corresponding with Col 1. —	16.	108.						

29th October

The following is an Abstract of the prisoners apprehended and committed to the Criminal Courts in the Month of 1829.-

	Total	Disposed of.									
		Under sentence of Punishment or Court Martial.	By the Criminal Judge.	By the Criminal Judge	By the Criminal Judge						
	No. of Cases	No. of Prisoners	No. of Cases	No. of Prisoners	No. of Cases	No. of Prisoners	No. of Cases	No. of Prisoners			
	No. of Prisoners										
	No. of Prisoners committed										
	No. of Prisoners discharged										
	No. of Prisoners confined until security is given										
	No. of Prisoners remanded										
Chittoor	12	55	15	1	4	12	2	1			
Cuddapah	10	50	10		4	10	"	"	6	31	1
Cumbum	5	11	1	"	2	8			5	24	
Bellary	10	29	5	"	5	10	4		5	11	
Chingleput	12	27	1	"	4	10	"	"	5	15	4
									2	6	5
Total	49	172	32	1	19	50	6	1	18	76	10

ass	10	22
" carried on	5	11
Corresponding with Col.	16	63
	49	172

5th November 1829.-

The following is an Abstract of the Casualties, and prisoners released in the Month of 1829.-

	Removed	Natural Death	Escaped	Released	Total.
Chittoor	"	3	"	12.	15.
Cuddapah	1	1	"	32.	34.
Cumbum	"	"	"	"	"
Bellary	"	"	"	"	"
Chingleput	"	2	"	6.	8.
Total	1	6.	"	50.	57.

The following is an Abstract of the prisoners committed for trial before the Court of Circuit up to the close of the month of 1829.

	In former Months.	In this month.	Total
Chittoor			
Cuddapah			
Cumbum			
Bellary			
Chingleput			
Total			

The following is an Abstract of the Sentences of the Foujdaree Court received in the Month of

1829.-

	Temporary or life imprisonment.	Stripes.	Death.	Transportation.	To the relay-sub or labour.	Released.	Total.
Chittoor	"	"	"	"	"	"	"
Cuddapah	"	"	"	"	"	"	"
Cumbum	"	"	"	"	"	"	"
Bellary	"	"	"	"	"	"	"
Chingleput	3	"	"	"	"	9	12
Total	3	"	"	"	"	9	12

Ordered that extract from these proceedings be sent to the four Provincial Courts of Circuit for their information and guidance.-

/Sent following letter No. 394/

Read letter stated 3d Instant, from the Second Judge on Circuit in the Northern Division,- Reporting the commencement of the Sessions at Rajah-mundry.-

/Here enter No. 641/

Read letter dated 22d Instant, from the Third Judge on Circuit in the Western Division, Reporting the commencement of the Sessions at Mangalore.-

/Here enter No. 642/

Read letter stated 18th Instant from the Acting Judge on Circuit in the Southern Division, reporting the arrival of the Court of Circuit at Salem, and the commencement of the Sessions at that station.-

/Here enter No. 625/

Read letter dated 12th Instant, from the Second Judge of the Court of Circuit in the Western Division, transmitting the original warrant issued for the execution of the prisoner in Case No. 10, of the Calendar of the Auxiliary Court Zillah Malabar, for the 1st Quarterly Sessions of 1829.-

/Here enter No. 632/

Read return dated 13th Instant, from the Judges of the Provincial Court of Circuit for the Northern Division to precept dated 24th Ultimo, desiring them to furnish the Magistrate of Nellore, and the Criminal Judge of Guntoor, with a copy of the remarks of the Foujdaree Adalut on their Criminal Reports, for July last.-

/Here enter No. 633/

F.C.

37

At a Court of the Foujdaree Udalut,
Present,

Friday, 30th October 1829 } Fe[illegible] Grant Esquire, } Judges
James Cochrane Esquire,
William Oliver Esquire,

Read letter dated the 15th instant from the Provincial Court of Circuit in the Northern Division, submitting the Reports required by Section XXXV. Regulation X of 1816, received from the several Criminal and Joint Criminal Judges in the Division, for the month of August last, together with their proceedings thereon.—

Vide letter No 634

Mazulipatam

The prisoner in Case No 1. of the Supplemental Report submitted by the Joint Criminal Judge of Mazulipatam, charged with "violent Assault," was apprehended on the 18th of April last but still remains undisposed of, the prosecutrix being unable to give her testimony." The Judges desire the Joint Criminal Judge will ascertain the extent of the wounds or the injury the prosecutrix has sustained, by the Assault made upon her, by the prisoner Angolloo Moosalaaoo; and should there be no prospect of her early attendance at the Criminal Court, and the wounds not likely to prove fatal, or of a nature sufficiently serious to warrant his committal, the Judges desire that

28th October 1829.

that the Government Pleader be directed to conduct the prosecution, and the case be disposed of accordingly, by the examination of any other testimony forthcoming.

2. With reference to Case No. 4 of the same Report the Judges desire the Joint Criminal Judge will submit an explanation of the delay in disposing of the prisoner Ambatee Pauperaudoo who was apprehended on the 27th of July last and charged with "stealing two Bottles of Beer 87 Bottles of Wine valued at 14½ Rupees."

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Northern Division, desiring them to furnish the Joint Criminal Judge of Masulipatam with a copy of the same precept returnable within two weeks from and after its receipt.

Sent following precept No 400

9th Oct

25th October 1

5th November 1829. demanded from him is mentioned, but not the

F.16.

38

At a Court of the Foujdaree Udalut,
Present,

Monday 2d November 1829 } F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire } Judges

Read letter dated the 4th 28th ultimo from the Additional Judge on Circuit in the Centre Division, submitting copy of the Cuddapah Calendar at the Second Sessions for 1829.—

Here enter No. 603

The only remark the Court have to make on this Calendar relates to the grounds on which the Additional Judge seems to have intimated to the 2d Prisoner in Case No. 2 his intention of applying for a mitigation of his sentence. The application not being yet regularly before them the Court will confine themselves at present to pointing out for the consideration of the Additional Judge that according to his remarks on the Calendar, particularly that which states the prisoner to have been inveigled into his confession, the proposed mitigation of punishment is to rest on a defect of proof, and not on circumstances diminishing the criminality of the prisoner.—

Ordered that extract of these proceedings be transmitted to the Additional Judge on Circuit in the Centre Division for his information.—

Sent following letter No. 401

Read

5th November 1829. demanded from him is mentioned, but not

2d November 1829.

Read letter dated 2d Instt from the 3d Judge of the Court of Circuit in the Western Division with the record of trial in Cases Nos 1 & 2 of the Malabar Auxiliary Court Calendar Third Quarterly Sessions for 1829.-

(Here enter No 565)

Mr Grant & Mr Cochrane

The First, and Second Puisne Judges on a deliberate consideration of the circumstances of the two cases in evidence before them, being of opinion that the proof against the prisoner,

"Tuttan Kannen, alias Koonjamboo,

is sufficient to commit him of the crime of Murder, do, under the authority with which they are vested by Clause first Section II Regulation I of 1818, commit him thereof, and sentence 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.-

Sent following letter No 402

J. U.

At a Court of the Zillah Adawlut.

Present.

Thursday, 5th November, 1829. } J. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

The Court having now received answers from all the Provincial Courts to that part of their proceedings under date the 5th August last which called for lists of the prisoners confined in the different Jails for more than three years in default of security, proceed to take the same into consideration.-

(Here enter Nos 580, 613, 620, & 621 of 1829)

Para 1. The Western Provincial Court report that there are no persons in any of the Jails in that Division who have been in confinement for more than three years in default of finding security.-

2. The Provincial Court in the Southern Division report only one person so confined, in the Salem Jail, and the case of this person having been duly brought before the Judge on Circuit at the first Sessions of 1828, and disposed of under Regulation VI of 1827, renders unnecessary any interference by this Court respecting him.-

3. In the Centre Division six persons are returned as being detained in the Chittoor Jail, who are

are stated to have expressed their total inability to find the required Security; but it does not appear that either the amount of Security or the period for which it is required, has been fixed- If this has not been done, the Court desire that the cases of these persons may be brought before the Judge presiding at the ensuing Quarterly Sessions, to be dealt with under the general provisions of Regulation VI of 1827-

4 Of the three persons detained in the Cuddapah Jail, the case of one, viz: Gondaloosgadoo, has been duly disposed of by the Judge on Circuit at the first Sessions of 1829; but with respect to the other two, it does not appear that any specific order has been passed further than that it is stated the Judges on Circuit have not yet deemed it proper to direct their release without Security- The period for which Security is required, as well as the amount demanded, should be fixed, as in the other case; and the Court direct that the same may be done accordingly by the Judge on the ensuing Circuit-

5 There are seven persons in confinement in the Bellary Jail, but proper orders were passed in the cases of all of them by the Judge on Circuit at the first Sessions of 1829-

6 In the Chingleput Jail one person is detained who was sent in by the Magistrate in August 1826- The amount of Security demanded

demanded from him is mentioned, but not the period for which it was required- The Court direct that this may be fixed by the Judge on Circuit at the ensuing Sessions at this Station-

7 Ordered that Extract of these proceedings be transmitted to the Provincial Court of Circuit in the Centre Division, and that they be directed to furnish Copy of Para 3 to the Acting Criminal Judge at Chittoor, of Para 4 to the Acting Criminal Judge at Cuddapah, and of Para 6 to the Criminal Judge of Chingleput for their information and guidance respectively.

(Sent following letter No 404)

Northern Division

8 The Guntoor Jail is the only one in the Northern Division in which there is no person confined for more than three years in default of Security-

9 In the Chicacole Jail there is only one person so confined, who, with others, was sentenced by this (the Foujdary) Court on the 8th May 1820, "to find good and sufficient Security "for good behaviour and appearance when required" The remarks in the Criminal Judges list, on the Case of this person, are not clearly intelligible- A subsequent Sentence on the prisoner, of 2 years, is there alluded to, but of what nature is not stated, nor is the Court assisted by the dates which are given- It appears that the amount of

of Security demanded from the prisoner is 200
but for what period it is required or, which is the
same thing, how long he is to be detained in defa
of finding it, is not mentioned - If this has not
been fixed, the Court desire that the Judge on
Circuit at the ensuing Sessions at this Station
will determine it, and pass a proper order on
this case under the general provisions of Regulatio
VI of 1827.-

10 The Criminal Judge of Masulipatam
at Rajahmundry transmits a list of five prisoner
detained under similar circumstances, but
with reference to the explanation given in the
Column of remarks, and particularly as all the
cases appear to have been brought before the
Judge on Circuit, the Court do not consider it ne
=cessary to interfere respecting them further than
to direct that if it has not already been done
(and whether it has or not does not appear)
the amount of Security and the period for
which it is required, may in each case be
determined by the Judge next on Circuit -

11 By the Joint Criminal Judge
at Masulipatam a list is furnished of not
fewer than 7 persons, under sentences of the
Court of Circuit, and of 3 persons detained
by order of the Magistrate, who have been up
=wards of three years in confinement in

Default.

default of Security, one of them indeed for nearly
seven and another for more than five years - The
cases of these persons were all before this Court
when their proceedings of the 22d January last
were recorded, but their interference was then
considered uncalled for as the Joint Criminal
Judge, in his report dated 17th November 1828, had
declared his opinion that none of them could safely
be released - It appearing however from the
list now under consideration, dated the 23d September
last, that the amount of Security has not yet
been fixed in any of these cases, the Court direct
that the whole may be brought before the Judge
presiding at the ensuing Quarterly Sessions
(should the 4th Quarterly Sessions for the Current
year have terminated) in order that the amount
of Security and the period for which it is required,
may be determined in each case, under the
general provisions of Regulation VI of 1827.-

12 The Nellore Jail is reported to con
=tain three persons similarly detained - The
case of one of them had been brought to the
notice of the Judge at the late Sessions and was
still under his consideration at the date of the
Criminal Judge's report - The remaining two
persons have been in confinement since the
2d September 1826 under the warrant of the
Magistrate of Guntoor, who in answer to a
letter from the Criminal Judge dated the 12th

June

5th November 1829

June last, suggesting their release, for the reasons therein given, stated that it was out of his power to authorize it, as "their cases had been brought to the "notice of the Acting 1st Judge late on Circuit, and "the reasons for their detention stated in his Calendar "to him under Clause fourth Section VIII Regulation "VI of 1827, and he must conclude had been deemed "satisfactory as no steps had been taken for their "release"

13 It appears to the Court of Foujdaree Adalut that a more satisfactory answer might have been given to the Criminal Judges reference and that the Magistrate ought at least to have stated whether, and why, he still considered the confinement of these persons to be necessary - The reasons for their detention, as stated in the Calendar laid before the Acting 1st Judge late on Circuit may very probably have been deemed satisfactory by him but this of course could not debar the Magistrate, by whom they were detained, from subsequently authorising their discharge if he saw fit to do so - The Court direct that a copy of this and the preceding para may be furnished to the Magistrate of Guntoor for his information, and that the Criminal Judge be instructed, in the event of the Magistrate still objecting to the release of these persons, to bring this case specially to the notice of the Judge on Circuit at the ensuing Sessions in view to a proper order being passed upon it under the general provisions of Regulation VI of 1827 -

Ordered that Extract of these proceedings be transmitted to the Provincial Court of Circuit in the Northern Division by Receipt directing that Para 9 may be furnished to the Criminal Judge of Chicacole, Para 10 to the Criminal Judge of Masulipatam at Rajahmundry, Para 11 to the Joint Criminal Judge at Masulipatam, and Paras 12 & 13 to the Criminal Judge of Nellore and the Magistrate of Guntoor for the information and guidance of those Officers respectively -

(Sent following Letter No. 405.)

Read letter dated the 23d September last from the Acting Judge on Circuit in the Southern Division, submitting Copies of the Combaconeum Calendars at the 2d Sessions of 1829 -

(Here enter No 002)

The period of imprisonment, with hard labor, to which the prisoner in No 2 has been adjudged, in commutation of the Sentence of Death, ought to be 7, not 5 years, unless the Circuit Judge should deem it proper to recommend a Mitigation of the punishment under Section IV Regulation I 1825 -

N. 3 2 The crime of which the 1st and 2d Prisoners were convicted, was house breaking and theft during the night, but unattended with any aggravating circumstances - The Acting Judge

Judge was of opinion that their notorious bad character subjected them to the penalties prescribed by Clause Second Section III Regulation VI of 1822, and sentenced them to receive 150 Lashes each with imprisonment and hard Labor for 14 years.-

3 Agreeably to this Court's construction, in their Circular orders of the 19th June 1823, of the Clause quoted by the Acting Judge, this Sentence was unauthorized.- The period of imprisonment adjudged ought not to have been more than 7 years. The 3d Prisoner, the receiver, has also, the Judge thinks, been punished too severely, by being sentenced to 7 years imprisonment.- 5 years would be sufficient.-

4 The Acting Judge will amend the Sentences on the 1st and 2d Prisoners, and modify that on the 3d prisoner, accordingly.-

No 6 5 From the Acting Judges remarks in this Case, the Prisoners clearly ought not to have been committed.- This should have been pointed out to the Criminal Judge.-

No 18 6 The Prisoner in this Case tho' acquitted was required to find Security for 3 years or in default thereof to be confined for that period, because it appeared from the Calendar that he was an old offender.- This was irregular, and the order for the requisition of Security should be recalled.- The prisoner it is true, appears to have been convicted of a former offence, but for that offence he was duly punished, tho' it requires to be explained how he was at large in 1827 if he was sentenced

J. M.
5th November 1829.-

to 14 years imprisonment at the 1st Sessions for 1821. This could seem however to be a clerical error in the entry of this Number; as a reference to the Calendar for the 1st Sessions of 1821 shews that the prisoners in No 9 on that Calendar were sentenced to 4, not 14, years imprisonment.-

Ordered that Extract of these proceedings be transmitted to the Acting Judge on Circuit in the Southern Division by precept returnable within two weeks from and after its receipt.-

Sent following precept No 4001A

J. M.
U. D.

Mr Johnson

F.16.

At a Court of the Foujdaree Udalut,
Present,

Monday 16th November 1829 } F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges

Read letter dated the 2nd Instant from the Acting Judge on Circuit in the Southern Division, submitting copies of the Salem Calendars for the second Sessions of 1829.-

//Here enter No. 658//

Referring to the Abstract of the charge of Perjury against the 4 female prisoner in Case No. 1 of the Criminal Judge's Calendar, the Court of Foujdaree Udalut desire to be furnished with an explanation of the circumstances which led to the examination of this woman before the Thor Ameen.-

2. The only other remark the Court have to make on this Calendar, relates to Case No. 2. The charges against this prisoner ought not to have been included in one and the same indictment, for they were obviously distinct and separate offences which could not have been committed at the same time and place.-

Ordered that extract of these proceedings be transmitted to the Acting Judge on Circuit in the Southern Division to be by him communicated to the Criminal Judge in the Zillah of Salem, and that he be directed to

fur

16th November 1829. furnish the information required in Paral with as little delay as possible.-

/Sent following precept/

Read letter dated the 23d. ultimo from the Provincial Court of Circuit in the Western Division submitting the Reports prescribed by Section XXXV. Regulation X of 1816 received from the several Criminal and Joint Criminal Judges in the Division for the Month of September last together with their proceedings thereon.-

/Here enter No. 649/

Of the prisoners sent in during previous months, 89 remain undisposed of.- and not a single case sent in during the month of September under review appears to have been decided.- The Criminal Judge has disposed of 3, and his Assistant of 8 cases-; but there still remain 78 prisoners whose cases are to be decided.-

The Judges resolve on this occasion to transmit to the Provincial Court, for the information of the Criminal Judge and his Assistant in Malabar copy of their letter addressed to Government on the 29th October last- and to desire that they will urge the Assistant Criminal Judge in charge to every possible exertion in disposing of the cases in arrear; The Judges are inclined to make every allowance for Mr. Strange, who appears to have satisfactorily performed the arduous duty which has devolved on him; and it is hoped that he will persevere to overcome the difficulties with which he has singly

Malabar.

singly to contend.-

With reference to the reasons assigned for the delay in disposing of the numerous cases in the Supplemental Report, viz: "waiting for evidence on the defence" "and for the prosecution" the Judges desire the Assistant Criminal Judge in charge will apprize the Provincial Court whether the witnesses for the prosecution are not generally sent in with the prisoners.- If so, whether it is usual to allow them to return to their homes, and send for them a second time; or whether they were kept waiting on the Court until the case is decided.- The very delay which has occurred, if attributed by the unnecessary detention of witnesses, may increase the difficulty of obtaining their regular attendance for the future, and thus augment the difficulties in which such an arrear of business has involved the Court.-

Tellicherry.

Not a single prisoner included in the Report No. 5 submitted by the Joint Criminal Judge of Malabar has been disposed of, and of decisions on the cases of only 5 prisoners out of 24 included in the Supplemental Report have been passed by that Officer.- The Judges desire the Joint Criminal Judge will submit an explanation of this extraordinary delay in the disposal of Criminal Cases - the Civil Court having been adjourned from the 17th of September the time of the Joint Criminal Judge ought to have been devoted exclusively

to

16th November 1829. to the disposal of the business pending on the Criminal Side of the Court.-

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Western Division desiring them to make the necessary communications to the Assistant Criminal Judge of Malabar and the Joint Criminal Judge at Tellicherry- precept returnable within one week from and after its receipt

/Sent following precept No

Read letter dated the 4th instant from the Provincial Court of Circuit in the Southern Division requesting to be informed whether, in transmitting the Monthly Criminal Reports in the manner directed in this Court's proceedings of the 29th October last they should wait for the explanations which may be required from the different subordinate tribunals or transmit them at a subsequent period.

/Here enter No. 660/

Resolved to direct that the monthly Criminal Reports be submitted as soon as the whole for each month may be received by the Provincial Courts, and that such explanations as the Judges of this Court may consider necessary to call for from the subordinate tribunals, be submitted to this Court so soon afterwards as they may be received.-

Ordered that extract from these proceedings be forwarded for the information of the four Provincial Courts of Circuit.-

/Sent following letter No

Read return dated 5th Instant from

16th November 1829 from the Provincial Court of Circuit for the Centre Division to precept dated 29th ultimo directing the unconditional release of the Prisoner in No. 134 of the report No 5 submitted by the Acting Criminal Judge in the Zillah of Chittoor.-

/Here enter No 662/

Read letter dated 2d Instant from the Third Judge late on Circuit in the Centre Division, transmitting the original warrant issued in case No 3 of the Cumbum Calendar 1st Sessions of 1829.-

/Here enter No 653/

Read return dated 5th Instant from the Provincial Court of Circuit for the Centre Division to precept dated 29th ultimo transmitting forms for the monthly Criminal statements, and rules for the guidance of the Provincial Court in the examination of them.-

/Here enter No 663/

Read return dated 11th Instant from the Provincial Court of Circuit in the Centre Division to the Courts' Precept of the 5th Instant accompanying their proceedings respecting the Prisoners confined for more than 3 years in default of security-

/Here enter No 670/

Read letter dated 2d Instant from the Acting Judge on Circuit in the Southern Division Reporting the arrival of the Court of Circuit at Coimbatore on the 1st Instant.-

/Here enter No. 655/

At a Court of the Foujdaree Udalut,

Present,

Thursday 19th November 1829

F. A. Grant Esquire,
James Cochrane Esquire,
William Oliver Esquire,
} Judges.

Read letter dated 24th June, last from the Third Judge on Circuit in the Cuttack Division submitting the Proceedings in Case No. 203. of the Cuddapah Calendar for the first Sessions 1829.

Here enter No 394.

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 Udalut, confirm the said futwa of the Cazee-ool-Coozat and Mooftees aforesaid, and acquitting the prisoner, Kadir Sahib, direct that he be set at liberty:-

According to the prosecutor's evidence, the fire, which is the subject of the present trial, took place on the night of the 27th May 1828; whereas the indictment charges it to have occurred on the 19th May, the date on which it is alleged the prosecutor's house was first fired without any very material injury. The Judges notice this only as shewing the carelessness with which the case has

19th November 1829. has been got up.-

2. The following are the grounds on which the Judges have resolved that the prisoner should be acquitted and released unconditionally. The only proof against him is his own alleged confession, which is not corroborated by circumstantial evidence of any kind. The prosecutor's story is not a very consistent one; and there seems great reason to fear that the prisoner was cajoled into a confession for the purpose of criminating the heads of the village, with whom the prosecutor, it is pretty evident, is at variance.-

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

/Sent following letter No. 417/

Read Petition presented by Moottoocumpan of the Zillah of Combaconum.-

(Here enter M. P. No. 25 of 1829)

This Petitioner has reference to Case No. 10 of the Combaconum Calendar for the second Sessions of 1829, in which one Mootteo was accused of having been concerned with others in beating and severely wounding Palany the husband of the prosecutrix Moottanye, and thereby causing his death; and also to Case No. 3 of the Calendar for the same Zillah at the first Sessions of 1828, in which four prisoners were tried on the same charge.-

The

The Petitioner, who represents himself to be the brother of the aforesaid prosecutrix, complains of the Circuit Judge having acquitted the said Mootteo and caused his sister (the prosecutrix) to be confined in Jail.-

On referring to the Calendar received from the Circuit Judge, it appears, as stated by the Petitioner, that the Prisoner Mootteo was acquitted and "ordered to be forthwith released," but no mention is made of any order for the confinement of the prosecutrix.-

Ordered therefore that a copy of the Petition be transmitted, with an extract of these proceedings, to the Acting Judge on Circuit in the Southern Division, for his report on the allegations therein contained.-

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

/Sent following precept No. 418/

Read return dated 6 Instant from the Judges of the Provincial Court of Circuit for the Western Division to precept dated 29th ultimo laying down certain rules for the guidance of the Provincial Court in the examination of the monthly Criminal Reports.-

/Here enter No. 673/

Exd. W. J.

5th November 1829

11th D.

19th November 182

J. U.

42.

At a Court of the Zoujdaree Adalut.

Present

Monday
23d November, 1829 } J. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge.

Read again letter dated 31st July
last from the Acting Judge on Circuit in the
Southern Division, transmitting the record of the
trial in case No 15 Madura Calendar for the
2d Sessions of 1829.
(Here enter No 490)

Read also return dated 19th Sep=
tember last from the Acting Judge on Circuit in
the Southern Division, to precept dated 7th
September last desiring the transmission of the
Persian translation of the record of the trial
of case No 15 Madura Calendar 2d Sessions 1829.
(Here enter No 590.)

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 vol Cozat and Mooftees of the Zoujdaree
Adalut, convict the prisoner,

"Aundy alias Andeapen"

of the crime of having, after transportation

beyond

beyond Sea escaped and returned without permission to the Madras territories, and Sentence him to be re-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 &c)

Read letter dated the 30th June last from the Third Judge on Circuit in the Centre Division, with record of trial in case No. 9 Bellary Calendar 1st Sessions 1829.

(Here enter No. 422.)

The First, Second, and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the petition of the Provincial Law Officer and the petition of the Cazee ool Cozat and Mooftees of the Sovdaree Adalut are of opinion that the evidence before them is sufficient to convict the prisoner "Pottapah" of Murder, and, convicting him thereof, do, under the provisions of Section XV Regulation XII of 1802, adjudge the said prisoner,

"Pottapah"

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

(Sent following letter &c)

Read letter dated the 9th instant from the Magistrate of Bellary recommending under the provisions of Section XX Regulation VIII

23d November 1829

of 1802 an offer of conditional pardon to two persons supposed accessories to a Gang Robbery committed in the Cheroany Talook on the night of the 6th of March last.

(Here enter No. 005)

From the letter of the Magistrate of Bellary it appears that two persons Begar Sashak and Bangvadee Gyanah, now in custody, have confessed themselves accessories to the said Robbery; and as the Conviction of the principals Curnum Ramapah, Piddos and Somiah not yet apprehended, as well as of other members of the Gang now in Custody would appear to depend greatly on their evidence, the Court resolve to recommend that the Right Honble the Governor in Council be pleased to authorize the offer of pardon to the said Begar Sashak and Bangvadee Gyanah on the conditions specified in Section XX Regulation VIII of 1802.

With reference to the 4th Para of the Magistrates letter wherein he notices "the "extraordinary gallantry displayed by a person "named Muctoom, who on hearing of the attack "on Bapapahs house armed himself with a "Sword" proceeded to the Spot and unassisted succeeded singly in compelling the Robbers to retreat from the house "before they had completed

3d November 1829.

its plunder"- the Judges resolve to request the sanction of the Right Honorable the Governor in Council for the payment to this individual of a reward of 200 Rupees; the Court are of opinion that such rewards should be granted only in very particular cases, but that when bestowed the remuneration should be such as to attract general attention, and by its liberality induce others to follow the example- The Judges have seldom known such gallantry displayed by any native peasant, and the severe wounds the individual has sustained as a further reason for the reward.-

3 It may be proper to add that the other parts of the Magistrates letter have been disposed of under Regulation IX 1816.-

Ordered that Extract from these proceedings together with copy of the letter from the Magistrate of Bellary be forwarded to the Secretary to Government in the Judicial Department to be laid before the Right Honorable the Governor in Council.-

(Sent following letter No)

Read letter dated the 16th instant from the additional Judge on Circuit in the Centre Division, transmitting copy of the Bellary Calendar 2d Sessions of 1829-

(Here enter No 070)

Read letter dated the 12th instant from the 2d Judge of the Court of Circuit in

23d November 1829

the Centre Division submitting the Calendars of prisoners committed to take their trial before the Court of Circuit at the 3d Quarterly Sessions of 1829.-

(Here enter No 072)

Read return dated 16th instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 5th instant containing the observations of this Court on the lists of persons in confinement in default of Security for more than 3 years.-

(Here enter No 085)

Read return dated 16th instant from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 29th ultimo containing instructions for the guidance of the Provincial Court in the examination of the Monthly Criminal reports.

(Here enter No 087)

Read letter dated the 17th instant from the 3d Judge on Circuit in the Western Division reporting his intention to proceed to Honore.-

(Here enter No 088) S

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Wm H Johnston

November 182

F.H.

43.

At a Court of the Foujdaree Udalut,

Present,

Monday 30th November 1829 } F.A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges.

Read letters dated respectively the 7th and 11th instant, from the First Judge of the Provincial Court of Circuit in the Northern Division, submitting the Calendars of persons committed for trial at the Fourth Quarterly Sessions of 1829 at Masulipatam.-

2H 30 H

Here enter No. 679 & 680 of

1. In the Column of remarks on Case No. 2. of the first Calendar, the First Judge states that the three prisoners who were tried stand "convicted of the crime laid to "their charge (Gang Robbery under aggravating "circumstances)" "and liable to 14 years im= "=prisonment and hard labor - but as the "more numerous part of the Gang have "escaped, and the prisoners not being well "identified, I have postponed passing sentence "until I obtain the sanction of the Judges "of the Foujdaree Udalut to mitigate their "punishment to seven years, which may "be considered sufficient as an example."-

2. The Court resolve to call for this trial; for if the prisoners are not well identified, that is a ground for their acquittal, and not for any mitigation of the prescribed punishment - Besides, if the charge is fully proved, the prisoners are

30th November 1829. are liable to transportation.-

3. In the single Case on the Calendar, in which the prisoner was charged with Manslaughter, the First Judge remarks that as he is not authorised to pass sentence in this case, it will be referred as soon as the record can be prepared.-

4. The Court have to observe that under the latter part of clause second Section XV. Regulation VII 1802, and clause seventh Section II Regulation XV 1803, the First Judge is quite competent to pass sentence, unless he thinks the prisoners criminality is greater than his power of punishment can reach.-

Ordered that extract of these proceedings be transmitted to the First Judge of the Northern Provincial Court of Circuit for his information and guidance.-

/Sent following letter No 427./

Read letter dated 16th Instant from the Second Judge of the Provincial Court of Circuit in the Northern Division transmitting first and supplemental Calendars of Rajahmundry for the Second Sessions of 1829.-

/Here enter No. 694/

Read letter, dated 16th Instant from the Second Judge on Circuit in the Northern Division reporting his intention to proceed to Chicacole.-

/Here enter No. 639/

Read letter dated 29th June last from the 3d Judge on Circuit in the Centre Division submitting the proceedings in Case No. 12. Bellary Calendar for the first Sessions of 1829.-

/Here enter No. 396/

The Second and Third Puisne Judges.

30th November 1829. 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 "Moodoocummah,"

and direct that he be set at liberty; and being of opinion that the evidence against the prisoner,

1st "Mudavallapah,"

is not sufficient for his conviction of the crime laid to his charge, do acquit him also, notwithstanding the futwa and sentence of Sokoobut of their Law Officers, and direct that he be likewise set at liberty.-

The Judges have read this trial with the greatest attention; and the impression on their minds is, that there is hardly a single fact upon which they can rely. In the first place, the memorandum of the inquest on the body appears, on the face of it, if the English date at the end is given correctly, to have been written seven days after the alleged murder, and on the very day on which, according to the Police Officers' report, the prisoners were despatched by him from Ouppett to the Criminal Court. If that date is correct it falsifies the Police Officers' report as to the day on which the prisoners were brought to his Cutcherry. The haste with which the body was disposed

30th November 1829. disposed of is another suspicious circum-
=stance. According to the statement in
the Memorandum, the District Police
Officer was only 15 miles distant from
the spot. In the next place there is
hardly a single fact in respect to which
the witnesses do not contradict themselves
or each other in their several examinations.
The evidence before the Police Officer would
certainly lead to the belief that Mullah, the
1st witness, although he does not expres-
=ly say so, saw the body of Roorapah;
for otherwise he could not have reported
in the village, as stated by the 2d and
3d Witnesses Tippagah and Kuntapah, that
a man was lying murdered on the road
or in the jungle. From the evidence given
before the Criminal Judge it would appear
that he only saw the two prisoners standing
on the road, and that on his going up
to ask them what was the matter one of
them took up a sword and drew it, which
frightened him. Here nothing is said about
the cause which induced Mullah to go
and inquire what was the matter; but
from the depositions before the Police
Officer and the Court of Circuit it would
appear that he went up to the prisoners
in consequence of one of them crying out
in distress. The Judges cannot reconcile
their crying out in this manner, which
could only be for the purpose of attract
=ing attention, with the alleged fact of
their drawing a sword upon Mullah
when he approached them. This seems
quite unintelligible whether it is supp-
=osed that they committed the murder
or that others had done it. Then the
place where the dead body was discover-
aid

P. 16.

November 1829. and the circumstances which led to its
discovery, seem equally uncertain. From
the informations before the Police it would
appear that the body was found, after
repeated searches, in a place different
from that pointed out by the prisoners,
but what the place was is not stated.
From the evidence before the Criminal
Judge it would appear that the corpse
was found in a Nullah covered with
leaves; according to the evidence of the
2d Witness, marks appeared on the ground
as if a man had been dragged along
towards the Nullah and that the track
was followed and the corpse thus found;
but according to the evidence of the 3d 4th
and 5th witnesses, the prisoners themselves
indicated the place where the body was
carried. In the evidence before the Court
of Circuit the nature of the place is not
indicated, nor is there any mention made
of the body's being covered with leaves.
All that appears is that the body was
found at a short distance from the
road, but not on information given
by the prisoners. Almost all the other
circumstances exposed to are left in the
same uncertainty. Then in the evidence
before the Criminal Judge and the
Court of Circuit a fact is stated,
which does not appear in the informa-
=tions before the Police, and of the falsehood
of which it appears to the Judges impossi-
=ble, to doubt. It is that the 1st pri-
=soners cloth was observed to be stained
with blood when the Villagers first
went to the spot. That it was
afterwards stained with blood is
sufficiently accounted for, if, as the
witnesses say, the prisoners were
made

30th November 1829

made to carry the dead body on their [illegible]
to the Village. The Judges cannot bring
themselves to believe for a moment that
this important fact, if true, would have
been omitted by the witnesses in their
evidence before the Police Officer: in
the evidence before the Criminal Court
and the Court of Circuit would lead to
belief that when the villagers first came
to the spot, there appeared nothing
which raised a suspicion in their
minds that a murder had been
committed; and yet it is pretended that
on their return from the search after
the robbers, they found the ground clotted
by where the prisoners stood, stained
with blood. A club too makes its
appearance in an unaccountable manner.

On these grounds the Judges
have thought it proper that the Prison-
=ers should be acquitted and released
unconditionally.-

Ordered that extract of
these proceedings be furnished to the Additional
Judge of Circuit in the Centre Division
for his information.-

/Sent following letter No. 430/

Read. W. L.

F. 16.

At a Court of the Foujdaree Adalut,
Present,

Thursday 3d December 1829

F. A. Grant Esquire,
James Cochrane Esquire,
William Oliver Esquire,
} Judges

Read again letter dated 25th September last from the Second Judge on Circuit in the Northern Division submitting Guntoor Calendar 2d Sessions 1829.-

/Here enter No. 601/

The records of the proceedings held by the 2d Judge in Cases Nos. 1, 2, 5, 8 and 10, of the above Calendar which according to the remarks entered therein are to be referred to the Foujdaree Adalut not having been received.-

The Court direct that the Second Judge on Circuit in the Southern Division be by precept commanded to send up the records of the proceedings held by him in the cases above mentioned within 20 days from the date of the receipt of this precept.-

/Sent following precept No. 431/

Read again letter dated 24th September last from the Additional Judge on Circuit in the Centre Division submitting Cuddapah Calendar 2d Sessions 1829.-

/Here enter No. 603/

The records of the proceedings held by the Additional Judge in cases Nos. 1, 6, 7, 8, 14, 16, 17, 26, 27, & 28, of the above Calendar and Nos. 1 & 2 of the Cuddapah Auxiliary Courts' Calendar, which according to the remarks entered therein are to be referred to the Foujdaree Adalut not

not having been received.-

2. The Court direct that the Additional Judge on Circuit in the Centre Division be by precept commanded to send up the reasons of the proceedings held by him in the cases above mentioned within 20 days from the date of the receipt of the precept.-

/Sent following precept/

Read return dated the 24th ultimo from the Judges of the Provincial Court of Circuit for the Southern Division to precept dated 29th October directing a uniform system to be observed in rendering the monthly Criminal returns.-

/Here enter No. 698/

Read return, dated 24th ultimo from the Judges of the Provincial Court of Circuit for the Northern Division to precept dated 30th ultimo directing the Criminal Judge of Masulipatam to explain the cause of delay in disposing of case No. 4 in his supplemental Report for August.-

/Here enter No. 697/

Read letter dated 23d ultimo from the 3d Judge on Circuit in the Western Division reporting the commencement of the Sessions at Honore.-

/Here enter No. 700/

Read further return dated 28th ultimo from the Judges of the Provincial Court of Circuit in the Northern Division to precept dated 30th October last calling for explanations in certain cases of the Masulipatam Supplemental Report for August last.-

/Here enter No. 706/

Read letter dated 30th ultimo from

from the Third Judge of the Provincial Court of Circuit for the Centre Division reporting the result of his enquiry into the cases of the 6 prisoners (as noticed in P. Proceedings of the 3th (ultimo) who have been confined in the Zillah Jail of Chittoor for more than 3 years in default of security, as the period for which they had been required to give it had not been stated.-

/Here enter No. 707/

At a Court of the Foujdaree Adalut.

Present

Saturday 12th December, 1829 } T. A. Grant Esqre 1st Puisne Judge.
James Cochrane Esqre 2d Puisne Judge.
William Oliver Esqre 3d Puisne Judge.

Read letter dated the 7th August last from the 3d Judge late on Circuit in the Centre Division, forwarding the proceedings in case No. 35 of the Cuddapah Calendar 1st Sessions of 1829.

(Here enter No. 505.)

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 Cozat and Mooftees of the Foujdaree Adalut, confirm the said futwa of the Cazee ool Cozat and Mooftees aforesaid, and acquitting the prisoners, 1st "Bunmeegadoo" and 2d "Panjeegadoo" direct that they be set at liberty.-

It appears from the record of the trial in case No. 15 of the same Calendar, the third prisoner in which Bunmegadoo, is the first prisoner in this case, that he the said Bunmegadoo was in August 1828, seized on Suspicion of a murder committed near the Village of Tungadoocontah, last

12th Decr 1829

but escaped on his way to the Criminal Court, and was seized again in November 1828, on Suspicion of his being concerned in this robbery, which was committed at the same Village on the 15th September 1828 - It is evident that his person must have been well known in that Village; and it seems hardly probable that he should have ventured to go there again so soon after he had made his escape from custody - He is alleged to have confessed the robbery before the Tahseeldar; but the only circumstance which can possibly be taken to corroborate this confession is the fact of his having a wound on his right shoulder - Even if the Judges could be sure that one of the robbers had been thus wounded, they should still hesitate before they could admit the wound on the prisoner's shoulder to be a sufficient corroboration of his confession - There is nothing to shew why the persons with whom, according to his alleged confession, he had lived after his escape were not examined - They might perhaps have cleared up this matter - and the omission of the Judge on Circuit to call for them is much to be regretted - Upon the evidence now before them it seems to the Judges impossible to convict this (the first) prisoner - The evidence against the other prisoners is still less conclusive; and as to the third and fourth, the Judges are utterly at a loss to understand how the Criminal Judge could think himself justified in committing them -

Ordered that Extract of these proceedings be

15th December 1829 from the

& Mr Oliver

1829 be furnished for the information of the Third Judge of Circuit in the Centre Division -

(Sent following letter No 4436)

Read letter dated the 31st August last from the Third Judge late on Circuit in the Centre Division, submitting the proceedings in case No 1 Supplemental Calendar of Bellary for the 1st Sessions of 1829 -

(Vide enter No 5745)

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 Mooftee of the Zoujdaree Adalut, confirm so much of the said futwa as relates to the prisoners -

1st "Pasalador" and

2d "Pungadoo"

and convicting them of the crime of House breaking, do, under the Sentence of Corroohut declared in the futwa, confirm the Sentence passed by the Judge on Circuit, that they be severally imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of seven years - And being of opinion that the proof against the prisoner,

3d "Mookrivadoo"

is sufficient to convict him of the same crime, do, under the authority with which they are vested by

Claude

clause first Section II Regulation I of 1818, con-
him thereof; and confirm the above Sentence of
Judge on Circuit on him also - But considering
the evidence insufficient against the prisoner

4th "Simmogadoo"

the Judges acquit him, notwithstanding the opi-
of their Law Officers, and direct that he be set
liberty.-

1.

The Third Judge was not competent to
sentence the third prisoner, because his conviction
depended exclusively upon evidence objected to by
the Law Officer - The Judges however have no doubt
to confirm the Sentence passed upon him as well
as upon the first and
Second prisoners.

2.

It is difficult to understand upon
what principle the Third Judge refused to exa-
mine the Prosecutor on behalf of the fourth priso
This prisoner called him to prove that immediately
after the robbery, he communicated to the Prosecu
tor what he knew, and if that was the case he
certainly ought to have been acquitted - The Judges
have thought it right to order his release -

3.

The first and Second prisoners know
pleaded guilty when arraigned before the Court of
Circuit, were then required to detail the particulars
of the robbery - This was irregular - After pleadi
the prisoners ought not to have been called upon
for any further statement they might have wished
to make, until the evidence for the prosecution

had

from the

S.C.
12th Decr 1829.

had been gone through they might then enter on
their defence or any such explanation or when
sentence was about to be passed they might shew
cause against it.

Ordered that extract of these pro-
ceedings be furnished for the information of the
Third Judge of Circuit in the Centre Division -

(Seat following letter No 437) S

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See proceedings of this Court of the 10th March 1807.-

V. Johnston

15th December 1829 from the D

D. U.

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At a Court of the Toujdaree Adalut

Present

Monday 14th December, 1829 } J. A. Grant Esqre 1st Puisne Judge.
James Cockrane Esqre 2d Puisne Judge.
William Oliver Esqre 3d Puisne Judge.

Read letter dated the 25th September last from the Third Judge late on Circuit in the Centre Division, with record of trial in case Sepoy Changlepute Calendar 1st Sessions 1829.-
No 2
(Here enter No 819)

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 Cozat and Mooftees of the Toujdaree Adalut, are in opinion that the prisoner,

"Comaraswamy"

is not convicted on presumptive proof, or on the evidence of credible witnesses, or on his own confession; and notwithstanding the futwa of their Law Officers, under the provisions of Clause 5th Section II. Regulation XV of 1803, they direct that the prisoner,

"Comaraswamy"

aforesaid be set at liberty.-

Sent following letter No 438)

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15th December 1829 from the Provincial Court of Circuit in the Southern Divisio[n] [illegible] rants [illegible] X of

F. H.

47

At a Court of the Foujdaree Adalut,
Present,

Tuesday 15th December 1829

F. A. Grant Esq.re
James Cockrane Esq.re
William Oliver Esq.re
} Judges.

Read return made by the Acting Judge in the Southern Division of Circuit to this Courts' pre-
cept of the 5th Instant.-
/Here enter No. 681/

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The Judges will not now disturb the mitigated sentence in No. 2.- But the Acting Judge must understand for the future that the degree of proof forthcoming may justify the acquittal of a prisoner - but, after conviction, is no grounds for a mitigation of punish-ment.- This is justifiable only under peculiar circumstances diminishing the guilt of the convict.-

2 The Acting Judge has quoted only a portion of clause fourth Section II Regulation VII 1822- and has imper-fectly attended to this Courts circular orders of the 19th June 1823, with reference to clause fifth of that Section.-

3 On reconsideration of these, he will perceive that, although notori-ous bad character, or previous con-viction of any heinous offence, brings theft, burglary, breaking into dwelling houses &c. under the cognizance of the Court of Circuit. Clause V Section II Re-gulation VII 1822 restricts their sentence, in such cases, to the usual commuta-tion for the loss of one limb; and that it is only when they are attended by "corporal injury in a less degree" than

15th December 1829

than to endanger life, that the punishment provided in clause fourth of that section can be inflicted - personal injury to a greater degree rendering the crime referrible to Madras. The Acting Judge must therefore modify the sentence in No 3 as directed by this Courts proceedings of the 5th Instant.-

Ordered that extract of these proceedings be sent to the late Acting Judge on Circuit in the Southern Division by precept returnable without delay.-

/Sent following precept No 1462/

Read letter dated 30th ultimo from the Provincial Court of Circuit for the Southern Division with copy of a letter from the Magistrate of Tinnevelly furnishing the explanation called for by the Provincial Court with respect to certain of the cases in the Criminal Reports for September last.-

/Here enter No 711/

Read letter dated 12th Instant from the Additional Judge on Circuit in the Centre Division with reference to the proceedings of this Court dated the 5th ultimo stating that he has fixed the period for which the security is required from the prisoner "Lapah Chitty" who was sent by the Magistrate to the Acting Criminal Court in August 1826.-

/Here enter No 725/

Read return dated 4th Instant from the Judges of the Provincial Court for the Western Division to precept dated 16th ultimo calling for certain explanations on the Criminal Reports for the month of September last.-

/Here enter No 726/

Read letter dated the 28th ultimo from

15th December 1829

from the Provincial Court of Circuit in the Southern Division forwarding the Reports required by section XXXV Regulation X of 1816, for the month of September.-

/Here enter No 701/

Cpt. U. Johnston

15th Dece[illegible]

21st December 1829. prisoner, it is hardly possible to

J. U.

At a Court of the Zillah Adalut.

Present.

Thursday, 17th December, 1829. } J. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2d Puisne Judge
William Oliver Esqre 3d Puisne Judge

Read letter dated 30th June last from the 2d Judge on Circuit in the Southern Division with record of trial in case No. 1 Coimbatore Calendar 1st Sessions 1829.

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(Here enter No. 439.)

The First, Second and Third Puisne Judges on a deliberate consideration of the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

"Chinnia Gownden"

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 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.

The Judges are afraid that the first and second witnesses Runjun and Poonee, were more actively concerned in the commission of the murder than they have admitted; and this perhaps accounts for their contradiction of themselves and

of

ble that the punishment

of each other – But although it may be doubted whether they are in strictness entitled to the pardon which has been conditionally granted to them, the Judges on a consideration of all the circumstances of the case think they are warranted in directing that the usual certificate be forwarded thro' the Second Judge to the Joint Criminal Judge at Coimbatore for delivery to the said two persons and that they be then set at liberty.–

Ordered that Extract of these proceedings be transmitted to the Second Judge of Circuit in the Southern Division to be by him communicated for the information and guidance of the Joint Criminal Judge of Salem at Coimbatore.

(Sent following letter No. 4443)

Mr. Grant.
&
Mr. Oliver.

Read letter dated the 20th August last from the Third Judge late on Circuit in the Centre Division submitting the proceedings in Cases Nos. 14 and 15, of the Bellary Calendar for the 1st Sessions of 1829.

(Here enter No. 540.)

The First and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit in cases Nos. 14 and 15, the futwas of the Provincial Law Officer and the futwas of the Cazee of Cogat and Mooftees of the Foujdaree Adalut, confirm the said futwa of the Cazee of Cogat and Mooftees aforesaid, and acquitting the

Foujdaree Adalut

Southern Division.

Certificate of pardon to Nunjun and Boone.–

Whereas, under date the 16th December 1828, the Right Honorable the Governor in Council, was pleased, on the recommendation of the Court of Foujdaree Adalut, to authorise the Joint Criminal Judge in the Zillah of Salem, at Coimbatore, to tender an offer of pardon to Nunjun and Boone, on condition of their making a full disclosure of every circumstance, within their knowledge, relative to the murder of Soldum; in the evening of Wednesday the 27th of August 1828. in the village of Tennamanelloor, in the Coimbatore Talook.–

And Whereas the Court of Foujdaree Adalut, are of opinion, that the conditions of the said grant of pardon have been sufficiently fulfilled.–

Now

Now these are to certify
and declare that in consideration
thereof, the Count of Loyidaue Maatu
have been pleased, under the provi
=sions of section XX. Regulation VII
of 1802, to confirm the pardon co
=ditionally tendered as aforesaid
the said Runjun and Poone, so far
as regards the acts herein referred
to - And the Count do hereby by
confirm the said pardon accordingly.

Given under my hand
and the Seal of the Court this 17th day
of December in the year of our Lord
1829.-

Register.

W. Johnson
Ext.

17th Dec., 1829.- The prisoners,

1st "Boodaredday"
2d "Wobalasegandoo"
3d "Lulahegandoo"
4th "Soobadoo"
5th "Ispegandoo"
6th "Wobalacondah"
7th "Nullegandoo"
8th "Chinnoogandoo"
9th "Mulloogandoo"
10th "Lingumah"
11th "Chinnamah"
12th "Gungammah" and
13th "Chittanah"

direct that they be set at liberty.-

The Judges are of opinion that the prisoners in case No 15, are clearly intitled to be acquitted - With respect to No 14 they think it may very reasonably be doubted whether the robbery charged actually took place - Proof of it depends entirely upon the credit due to Bavala Bagadoo the second prosecutor, and his story is too improbable to be believed - It seems very doubtful whether he was wounded at all, for if he had been, the wounds must have been very visible when he was examined by the Criminal Judge, and he would have exhibited them -

Ordered that Extract of these proceedings be furnished for the information of the 3d Judge of Circuit in the Centre Division -

(Sent following Letter No 4444)

Read

17th December 1829.

Read petition presented by Arr
=mooga Padiachy of the Gilbak of Chingleput.
(Here enter Misc: pet.r No 18 of 1829)

The Petitioner represents himself
to be the father of Comarasawmy prisoner in case
No 2 on the Chingleput Supplimental Calendar at
the first Sessions of 1829, the trial in which Case
has been referred to this Court by the Judge then
on Circuit, and the prayer of his petition is, that
for the reasons and under the circumstances therein
stated, his said Son may be ordered to be released.

The Court having passed a Sentence
of acquittal in the case in question and directed
the unconditional release of the prisoner; Ordered
that the same be communicated to the Petitioner.

17th December 1829.

E. U.

At a Court of the Foujdaree Udalut.

Present

Monday
21st December 1829. } F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge.

Read letter dated the 25th September
last from the Third Judge of the Circuit
of Circuit in the Northern Division,
submitting the record of trial in case
No 1 Madulpatam Calendar 3rd Quarterly
Sessions 1829.
(Here enter No 612.)

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
Adalut, confirm the said futwa of the
Cazee ool Coozat and Mooftees aforesaid
said and acquit the prisoners,
1st "Illa Sroottnadoo,"
and
2nd "Isalagramum Ratnavalingum,"
of the charge of Murder, but direct that
they be detained to take their trial for
effecting their escape from confinement.

The Judges have little
doubt of the guilt of the prisoners,
but

21st December, 1829

but it has appeared to them very questionable whether they should be warranted in convicting them. Their conviction depended mainly on circumstantial evidence; for it would have been dangerous to attach any weight to their alleged verbal confessions when re-apprehended, and there are two very material points which were not, though it is obvious they ought to have been ascertained. The first is, whether the deceased had been to his daughter's house on the day he was murdered; for if he had not, that would have made strongly against the prisoners but if he had been there it is possible that the prisoners made their escape during his absence, and some others may have committed the offence charged. The second was, whether the Chisel, Sludge and Inward were concealed in the spot alleged to have been indicated by the first prisoner to the Jailer; for if they had been found there, it would have been a strong presumption of their guilt. That the very great importance of these two points should have escaped the notice both of the Joint Criminal Judge and the Judge on Circuit, is unaccountable and much to be regretted.

Ordered that extract of these proceedings be furnished for

21st December 1829.

the information of the Judge of the Provincial Court of Circuit in the Northern Division:

(Cont. following letter No. 4446.

Read letter dated the 11th September last from the 3rd Judge late on Circuit in the Centre Division, submitting the record of trial in case No. 7 Chinglaput Calendar for Sessions 1829.

(Centre No. 819.)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit the Fauzdaree of the Provincial Law Officer and the Fauzdaree of the Cazee and Law Officers and Moofties of the Fauzdaree Adawlut confirm such part of the finding of their Law Officers as acquits the prisoners,

5th "Kistnun"

and

6th "Chinnamal alias Paupal,"

and direct that they be set at liberty; but being of opinion that the proof against the prisoners,

1st "Karoopun alias Roopun,"

2nd "Roomanun,"

3rd "Appoo,"

and

4th "Govindun;"

is sufficient to convict them of the crime of Robbery, &c, 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 Karoopun alias Roopun,

and

3rd "Appoo,"

to receive each one hundred and fifty lashes with a cat of nine tails and to be imprisoned and kept to Cazee

kept to hard labor in irons on the public roads or other public works for and during the period of seven years;

and the prisoners,

2nd "Kormanun"

and

4th "Gaimdun"

to receive each fifty lashes with a cat-of-nine tails 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.-

Of the guilt of the first, third and fourth prisoners there can be no doubt whatever, and in the opinion of the Judges the second prisoner is guilty also. The only circumstance which appears to make in his favor is his going to the prosecutors house in the morning after the robbery, but if he had staid away, suspicion must necessarily have attached to him. His confession before the Criminal Judge is corroborated by his delivery up of money concealed under very suspicious circumstances, and his defence is a very unsatisfactory one. The Judges have therefore convicted him also.-

2. With respect to the fifth prisoner

F.M.

prisoner, it is hardly possible to believe that if he had been guilty he would have taken the active part he did in discovering the robbers. He would not gratuitously have pointed out the first prisoner, if he had engaged him to commit the crime. On this point all the witnesses agree. The Judges have therefore resolved to acquit him, against the sixth prisoner the evidence appears to be very vague and inconclusive. The sentence on the first and third prisoners has been passed in consideration of their being old offenders.-

Ordered that a extract of these proceedings be furnished for the information of the Third Judge of Circuit in the Centre Division.-

(Sent following letter No. 447.)

Read letter, dated the 25th August last from the Third Judge late on Circuit in the Centre Division, forwarding the proceedings in case No. 2 of the Supplemental Calendar of Cuddapah for the 1st Session of 1829.-

(Here enter No. 356.)

The First, Second, and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the fiatwa of the Provincial Law Officer and the fiatwa of the Cazee

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Cazee aol Coozat and Mooftees of the Poujdaree Adauit, confirm the said finding of the Cazee aol Coozat and Mooftees aforesaid, and acquitting the prisoners

1st "Somegaundoo"
2nd "Vencatramdoo"
and
3rd "Chingadoo,"

direct that they be set at liberty.-

The evidence against the first and second prisoners consists of an alleged confession before the Police Officer, which is totally uncorroborated except by the fifth prosecutor swearing that he recognised them at the time of the robbery, and this it is impossible to believe, since it appears that all the robbers were disguised, and this prosecutor himself stated before the Police that he recognised none of them.- It is not even pretended that any of the plundered property was found upon them.- One of the Witnesses indeed expressly says that none was found. The third prisoner made no confession before the Police Officer, but it is alleged that upon him were found the articles marked Nos 10 and 11, which are sworn to No 10 as belonging

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to the second prosecutor, but the second prosecutor before the Court of Circuit was not asked whether he could swear to it. The Circuit Judge has released the fourth prisoner, but upon him was found the article marked No 8, which is sworn to as belonging to the fourth prosecutor. It appears to the Judges that the fourth prisoner's case cannot be distinguished from that of the third prisoner.- It is not shown that the articles found on the third prisoner were more easily to be sworn to than those found on the fourth. On all these grounds the Judges have resolved to annul the sentence passed by the Judge on Circuit upon the first, second and third prisoners, and to direct that the said prisoners be released forthwith.-

Ordered that extract of these proceedings be furnished for the information of the Third Judge of Circuit in the Centre Division.-

(Sent following letter No 1548)

Read letter dated the 18th May last from the Second Judge on Circuit in the Southern Division with record of the trial in case No 10 Combaconum Calendar 1st Sessions 1829.- (Here enter No 302)

Read

Read also letter dated the 24th September last from the Second Judge Talaon Circuit in the Southern Division, forwarding copy of a letter from the Criminal Judge of Combaconum announcing the death of Sadien the 9th prisoner in case No 16, of the Combaconum Calendar 1st Sessions of 1829 -

(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 Cazat and Mooftees of the Fouzdaree Adawlut, are in opinion that the prisoners,

1st "Kootta padiachy",
2nd "Armaighum",
4th "Chachen",
5th "Veerabadran",
6th "Vailan"
7th "Chassaogum",
and
10th "Nuddy",

are not convicted on presumptive proof or on the evidence of credible witnesses or on their own confessions and notwithstanding the futwa of their Law Officers, under the provisions of Clause Sixth Section II Regulation XV of 803, acquit them, but considering that

that strong suspicion, though not amounting to conviction, attaches to them, the Judges direct that the prisoners aforesaid be severally required to find two sureties in fifty Rupees each for their good behaviour and appearance when required within three years, or in default thereof that they be each detained for three years in confinement.

After a very attentive consideration of this Case, the Judges are satisfied that the evidence is not sufficient for the conviction of the prisoners. The prosecutors reasons for delaying to complain of the robbery for nearly one month after it was committed, although it is pretended that the people of his house well knew one of the robbers, and heard the names of several others at the time, are unsatisfactory in the highest degree, and his conduct in this respect appears so irreconcileable with the alleged fact that the persons or names of any of the robbers were known at the time, as to warrant the strongest distrust of all the evidence on that point. The property found, or said to be found, in and about the dwellings of the 1st and 2nd prisoners, was found by their father: the prisoners were

not

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not presented at the time; nor would it appear that they referred the Police to their father for information; neither indeed can any thing be found in the evidence to connect them with this property, which for all that appears to the contrary, might have been placed there without their knowledge. The discovery of the property upon the other prisoners would operate very strongly against some of them, were there not grounds for suspecting something unfair on the part of the discoverers. It is pretty clear that the discovery was made on information given by one Cunningham, but there is nothing to show how he came by his knowledge. This man appears to be a dismissed Convict, and would seem to be of a very doubtful character. Some of the prisoners too appear to have been employed in apprehending him on some criminal charge; and his activity on the present occasion was principally directed against the relations and connections of these prisoners. Upon the whole therefore the Judges think it would be very dangerous for them to admit the evidence to the discovery of the plundered property upon the prisoners as conclusive of their guilt, and there is nothing else upon which they should be justified in placing reliance. Their verbal confessions on being apprehended, and the confessions of some of them before the Sheriff, are worth very little.

The foregoing observations are not intended to apply to the case of the 9th and 10th prisoners - the evidence against them being of as much less suspicious description, but the 9th prisoner is dead, and as the strongest fact against the 10th prisoner is his having been apprehended while in company with the 9th on the second day after the robbery, no plundered articles being found in his possession, the Judges have resolved to acquit him.

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

(Sent following letter No 1449.

Read return dated the 11th Instant from the Acting Judge on Circuit in the Southern Division to this Court's Precept of the 19th Ultimo, calling for a report on the allegations contained in the Petition of Scotton Curran.

(Here enter No 726.)

The Acting Judge submits a copy of his proceedings in the Case

the

21st December 1829. the subject of the said Petition, which, he observes, "shews that Mootiyee "the person therein referred to was "ordered to be committed under Regula- "tion III of 1826 to be tried for the crime "of wilful and corrupt Perjury, on which "account she is now in confinement."

The allegation of Perjury appears, from the extract of proceedings, to consist in the aforesaid Mootiyee having sworn before the Court of Circuit that her husband "told her "that he had been beaten by Jondawary "and others, and likewise by the present "prisoner Mootiya," whereas she "in "her examination before the Assistant "Criminal Judge on the 11th September "1827 swore that when her said husband "was brought to her house, "he was "unable to walk and was insensible" "and that he did not speak from that "time till his death," these two depositions "being in direct contradiction the "one to the other, and the matter so "deposed to having been most material "to the issue of the Trial then under "investigation, the said Mootiyee "has committed wilful and corrupt "Perjury in the one or the other of these "two depositions."

To

To constitute Perjury, a party must not only wilfully, but "deliberately," give two contradictory depositions on oath, and there must also be "strong grounds to presume the corrupt "intention of the party."

In the present case there is nothing in the proceedings of the Acting Judge satisfactorily to shew either deliberation or corrupt intention on the part of the deponent. It does not appear that the contradiction between her two depositions was pointed out to her, or that she was required to explain or that she was duly warned of what the consequence might be if that contradiction were persisted in and could not be explained. All this may have been done, and the Court think it was; but as the proceedings alone referred to contain no information on these points, it may possibly have been overlooked, and in that case the Court of Dewanee Adalut have no hesitation in expressing their opinion that the commitment of the woman was improper, and that she ought to be forthwith discharged without trial.

Ordered that a extract of

and

of these proceedings be transmitted to the Acting Judge of Circuit in the Southern Division by precept requiring a further report without delay:-

(Sent following precept No 450.

Read letter dated the 27th ultimo from the Provincial Court of Circuit in the Centre Division submitting the Reports required by Section XXXV Regulation X of 1816 from the several Criminal and Joint Criminal Judges in the Division for the month of October last, together with their proceedings thereon.-

(Here enter No 703)

Ballary 1. The Judges desire the Criminal Judge of Ballary will in future subjoin the Report No 8 of prisoners under his charge to be tried up to the 3rd of the month.-

Chittoor 2. The reason assigned by the Police Officer for the detention of the prisoners in the Talook in case No 163 from the 8th of September to the 12th of October, (viz. that the delay originated "in the attendance of a witness which was not effected until the 11th of October") was declared by the Court of Sudder Adawlut in their Circular Order dated the 21st of May last to be inadmissible.

Tahsildars

Tahsildars were therein directed, upon being satisfied of a prisoners guilt, notwithstanding other prisoners remain to be apprehended or other witnesses to be examined, to forward the prisoner of whose guilt he is satisfied and the witnesses already examined at once to the Criminal Court, with a report stating that the others will be apprehended & forwarded.

Ordered that extract from these proceedings be forwarded to the Provincial Court in the Centre Division desiring them to make the necessary communication to the Criminal Judge of Ballary and the Magistrate in the Zillah of Chittoor precept returnable within one week from and after its receipt.-

(Sent following precept No 451.

Read letter dated the 15th instant from the Third Judge on Circuit in the Southern Division, with reference to his return of the 11th ultimo forwarding copy of a return received from the Criminal Judge of Combaconum:-

(Here enter No 730)

Read letter dated the 19th Instant, from the Third Judge late on Circuit in the Centre Division forwarding

21st December 1829

forwarding the original warrant issued in case No 9 of the Bellary Calendar.

(Fort St George) No 737 J S

24
1829

Exd. U. A.

J. U.

At a Court of the Sowdaree Adalut

Present

Thursday, 24th December 1829. J. A. Grant Esqr 1st Puisne Judge
James Cochrane Esqr 2d Puisne Judge
William Oliver Esqr 3d Puisne Judge

24
29

Para 1. The Registar lays before the Court the following Abstracts, drawn up in his office, of the Criminal reports and Statements received thro' the Provincial Courts of Circuit, exhibiting the operations of the Village and District Police and the Magistracy, of the Criminal Courts, and of the Courts of Circuit, respectively; and he submits also an abstract of the operations of this Court, during the first Six months of the Current year, or from the 1st January to the 30th June 1829, according to the new forms approved by Government, on the 20th December last.

(Here enter Nos 1 to 9.)

2 With the exception of the statement for this Court, which is single, there are two abstracts for each tribunal. The one exhibiting a general view of the offenders who have come before all the tribunals of the same class, and the manner in which they have been disposed of; and the other the particulars for each Zillah or Division. The Court proceed to take the same successively into consideration, and to record their observations upon each.

Petty

and

Petty Offences

3 The two first Statements Nº 1 and 2 respectively include all offences punishable either by the native police, or the European Magistracy - being principally petty thefts, trifling assaults, and other minor charges -

4 From the first of these statements, it appears that the persons charged with "petty theft" punishable by the Village Police were only 66, by the District Police 2903, and by the Magistracy 702 - making a total of 3791; whilst those chayd with trifling "assaults", punishable by the Village Police were 485, by the District Police 42389 and by the Magistracy 4900, making a total of no less than 47774 -

5 There were brought before the Heads of Village Police for offences punishable by them, during the above period, 551 persons, of whom 309 were acquitted or dismissed, and 242 convicted and punished, 141, by confinement in the Village Choultry and 101 in the stocks -

6 There were brought before the Heads of District Police, for offences punishable by them, during the same period, 43708 persons, besides 1858 whose cases were not disposed of at the date of the last report, making a total of 45,566 persons - Of these, the number of persons entered as acquitted is not fewer than 29313, against 2127 of whom the charge was false and Malicious; while the total number punished and convicted is only 13901 - 12761 without reference to the Magistracy and

840 after reference to them; besides these, 2733 are returned as under examination at the close of this report, making an aggregate of 45,647 persons, or 281 in excess of the total given above - The difference is not material, in this instance; but if the detailed statements of the inferior tribunals had been more carefully prepared, this discrepancy would not have existed - Of the persons punished by the District Police 9914 were fined 1874 confined in the Choultry, 352 in the stocks, and 1460 flogged -

7 Before the Magistrates there were brought, for petty offences, in the same period, 5959 persons, and 120 were also before them whose cases were not disposed of at the close of the last report, making together 6079; of whom 3811 were acquitted, against 270 of whom the charge was false and malicious - 1923 were convicted and punished, 1183 by fine, 588 by imprisonment, and 152 by flogging; 509 being under examination at the close of these reports - From errors in the detailed returns the total of these numbers, 6243, also shews a difference of 164 more than that first mentioned, instead of exactly agreeing with it -

8 The Judges remark that under the head of "Petty assaults" one person in Rasulipatam is entered as punished by the District Police, and three persons in Cuddapah, as punished by the Magistrates, with stripes - Flogging can be inflicted

flicted by neither of these authorities, except for petty theft; and the Provincial Courts in the Northern and Centre Division respectively, will therefore call for, and submit to this Court, any explanation the Magistrates of these districts may be able to give, of the cause of such illegal state.

9. The Judges further observe that, in Canara, the use of false weights and measures and false complaints of petty offences, have been punished by the native police - whereas under Section XXXV Regulation IX and Section LIV Regulation XI 1816, these offences are cognizable only by the Magistrates - In the same manner, the native police in Chingleput have punished the illicit sale of liquor to Europeans, which, under Section IV Regulation IV 1827, is cognizable by the Magistrates only - The Provincial Courts in the Western and Centre Divisions will point out these irregularities to the Magistrates, and will take measures to prevent their recurrence.

10. By the corresponding detailed statement No 2 for each Zillah, it appears that in the Districts of Combeconum (Tanjore), Coimbatore, Ganjam, Madura, Masulipatam, Rajahmundry, and Trichinopoly the returns of the village Police are altogether blank, and that in Vizagapatam (South Arcot), Chingleput and Chittoor there are respectively only 1, 2 and 4 persons returned as having been punished by the Heads of Village Police - Guntoor and Malabar are the Districts in which the

J.H.

24th Dec. 1829.- the offences punishable by the Village Police, appear to have been most numerously corrected by them, but even there the number charged were only 143 in the one, and 172 in the other - In Nellore there were 74, and in Canara 57 - The Judges under these circumstances, are apprehensive, either that the Magistrates do not cause the Village police generally to exercise their powers of punishing petty offences, or that the punishments inflicted by them are not duly reported.-

11 Of the 45306 persons brought before the heads of District Police for Petty offences, it appears that there were as many as 5,280 in the District of Masulipatam alone, of whom nearly the entire number or 4,002 were acquitted - There were also 3,880 in Guntoor, of whom 2945 were acquitted 3,283 in Nellore, of whom not fewer than 2,080 were acquitted; in Vizagapatam 2752, of whom 2350 were acquitted, the charges against no less than 559 of these appearing to have been false and malicious; in Cuddapah 2954, of whom 1982 were acquitted; while in the adjoining more extensive and populous Zilla of Bellary, the entire number of persons brought before the District Police, for Petty offences, did not exceed 550, and of these only 45 were acquitted - The Judges cannot but infer that, in the first mentioned provinces, the District police summon before them many thousand

thousand persons, for petty offences, on very insufficient grounds - It appears that this is not the case so much for petty theft, as for tufting apaults, - and the Magistrates, as well as the Provincial Courts, ought to interfere to check this needless interference with the occupations of so numerous a portion of the community -

12 Canara 90, Combaconum 71, Coimbatore 82, Guntoor 73, Madura 178, and Verdachellum 153 are the Districts in which the greatest number of references were made to the Magistrates, previously to the punishment of petty offences by the District Police - The number of persons punished by them without such reference was greatest in Combaconum 1161, Madura 1453, and Salem 1181; and in the same three Districts also were stripes most generally inflicted, the persons there flogged by the native police being 223, 180, and 135 respectively -

13 The following are the Districts in which the greatest number of persons were brought before the European Magistrates for "petty offences" -

In Canara 630 of whom were acquitted	421
Combaconum 454	130
Cuddapah 505	277
Madura 615	444
Salem 417	280
Verdachellum 1002	824

14 In Bellary and Coimbatore there were respectively only 40 and 34 - Notwithstanding the repeated orders issued by this Court, to induce uniformity in the principles on which the Criminal returns should be made out in different districts, it is impossible to contrast the above entries for Bellari and Verdachellum, respectively, without inferring, either that the returns in these two Zillahs are made out on different principles, or that a most opposite system exists in conducting the Magisterial duties of these two provinces, as regards the cognizance of petty offences by the European authorities - A comparison also between the number charged and acquitted proves that, in some of the districts above noticed, the evil mentioned above as pervading the District police extends even to the European Magistracy -

15 The following inaccuracies are observable in the Statement No. 1, the grand
45,047 total of persons acquitted, punished, and under examination, before the District Police Officers, exceeds as already noticed, by 281, the
45,366 total reported as having been brought before them - This error with the exception of 1 number, is found to have originated in the Statement furnished by the Magistrate of Vizagapatam, where in the 13th Column, 280 persons are entered as being under examination before the District Police at the close of the Report, who are not accounted

accounted for in any of the preceding columns, which shew the numbers brought before those officers during the six months, or previously remaining undisposed of, and which exactly correspond with the Columns of acquittals and punishments - The other number is traced to the statement from the Magistrate of Tinnevelly, in which 1 person is entered in Column 13 who is not accounted for, inasmuch as the Columns 7 and 8, 10 and 11 correspond, or it may be that the entry of the figure 1 in Column 11 was by mistake.

6243. 10 In the same way the Grand total, in this statement, of persons acquitted, punished, and under examination, before the Magistrates

6079. exceeds by 164 the total reported as having been brought before them - In the Vizagapatam statement 166 persons are entered in Column 21 as under examination, who are not accounted for, but are in excess of the numbers inserted in the preceding columns; and in each of the statements from Chittoor and Malabar there is 1 person included in Column 16, not accounted for in the subsequent columns - These 2 less being set off against the said 166 in excess, leaves the difference above shewn.

17. The Judges direct that the four Provincial Courts do cause the Magistracy and Criminal Courts in forwarding their half yearly

yearly statements, for the future, to add up each Column, and carefully to compare the Columns which ought to correspond, so that no similar errors may be found therein - They should also be instructed to enter into these statements as few new heads, as may be consistent with a proper classification of the crimes which have actually occurred - Thus, under a new general head of "Affrays" may be classed many offences separately entered in the present returns, such as "taking forcible possession" &c., Under the existing head of "Sodomy", all crimes against nature may be entered, without any disgusting detail; and, under "Breaches of the revenue laws" and Coin "offences relating to", several of the existing new entries may be classed.-

Crimes and Misdemeanours

18 The Statements № 3 and 4e exhibit the operations of the District Native Police, and the Magistracy, with respect to all the graver classes of crime and misdemeanour, not punishable by them, but by the higher tribunals.-

19 By the first of these, it appears that the number of serious crimes ascertained to have been committed during the six months under review, was 3482, in which 14959 persons are supposed to have been concerned.- The most prevalent offences are house breaking by night 1051, by day 275, thefts of considerable amount 849, robbery by gangs 680,

by

by a single person 108 - Maiming and wounding 157, arson 123, Murder 104 - Murder and Robbery 23, receiving stolen goods 100 - Culpable homicide 24 - There are also 10 cases of rape, 13 of unnatural crimes, 19 of abortion, and 18 of Forgery; and, amongst others, a case of forcing a person to undergo the ordeal, of dipping his hand into boiling ghee.-

20 In more than one half of the whole, or in 1814 cases, the offenders were altogether unknown, and in 1856 cases, estimated to include 9089 persons; no one party concerned had yet been apprehended.- Of these, the cases of house breaking by night were not fewer than 790 supposed to have been perpetrated by 1671 persons, and 17 by day by 24 - 384 thefts by 1033 persons, 410 gang robberies by 5650 persons, and 105 robberies by single individuals supposed to have been perpetrated by 100 persons - 49 cases of Arson by 161 persons - 33 cases of murder including 115, and 15 of murder and robbery, 104 persons - The above certainly presents a very unfavorable view of the Efficiency of the existing police, especially as regards offences against property, the most injurious to individuals, and the perpetration of which must be invariably encouraged, when the depredations on the public so generally escape detection.-

21 The cases of serious crime before the District Police undisposed of at the date of the previous Report, was 66, including 266 persons; the

Of the 850 persons released by the

the number brought before them during the period under consideration for crimes committed before its commencement, was 137 cases, including 420 persons; while there were brought before them in the same period, for crimes committed within it, 1472 cases, including 4359 persons; of which 67 cases were murders, 14 cases of Culpable Homicide, 8 of robbery and murder, 230 Gang robberies including 1150 persons, 50 Robberies by single individuals, 10 cases of House breaking by day, 250 of House breaking by night including 771 persons, 400 Thefts including 918 persons, 82 cases of receiving stolen goods, 73 of arson, and 131 of maiming and wounding, including 445 persons.-

22 The whole formed in the aggregate 1675 cases, including altogether 5038 persons, of whom the District Police officers released 1977, against 281 of whom the accusations appeared to be wilfully false and malicious; they sent to the Criminal Judges 1091 Cases including 2888 persons; and 61 with 230 persons, remained undisposed of at the close of these reports.-

23 The cases of serious crime before the Magistrates undisposed of at the close of the last report, amounted to 20 including 90 persons; while there were brought before them during the period under review, for crimes committed before its commencement, 72 cases including 321 persons; and for crimes committed within it, 306 cases, including 977 persons - Making altogether 398 cases and 1394 persons, of whom 545 were

Concerned

concerned in 91 Gang Robberies, 125 in 24 Murders, 101 in 32 cases of House breaking by night, and 232 in 90 Thefts.-

24 . . Of these 1394 persons, there were released by the Magistrates no fewer than 850, of whom the accusations against 100 appeared to have been wilfully false and malicious; 395 included in 149 cases, were sent to the Criminal Judges, and 530, in 75 cases, remained undisposed of; but of this apparently large number, it is shewn by the Statement No 4 about to be noticed, that 387 persons, in 45 cases, were before the Magistrate in the single district of Vizagapatam.-

25 . . The Statement No 4, giving in detail the operations of the District Police and Magistracy in each Zillah, as regards the graver offences of which No 3 is the abstract, exhibits some important results, which have attracted the particular attention of the Court.-

26 . . It appears in the first place, that Cuddapah is the District in which the greatest number of serious crimes and misdemeanours was ascertained to have taken place during the six months ending 30th June last, there having been in it 534 cases and in no other District so many as 350 - 345 in Coimbatore, and 280 in Chittoor, are the next largest numbers - It seems remarkable that while so many cases were ascertained in Cuddapah

Of the 850 persons released by the

Cuddapah, there should not have been half that number in the adjoining District of Bellary, where the total given is only 250 - Again, though there were 345 cases in Coimbatore, in Madura there were not more than 85, in Salem only 163, and in Combaconum (Tanjore) only 75 - The same is observable in the Northern Districts, the number of crimes ascertained in Rajahmundry amounting to 241, while in Vizagapatam, Guntoor and Nellore there were respectively not more than 60, - 105 and 84 - The smallest number, 41, was in Chingleput.-

27 . . In the adjoining provinces of Malabar and Canara, there is a remarkable approximation in the numbers both of crimes, and persons concerned therein, but a marked contrast in the success of the police - In the former, the cases of serious crime are 222, in which 677 persons are supposed to have been concerned and of these only 92 remained unapprehended - in the latter 253, supposed to include 653 persons - of whom no less than 335 remained undetected - The contrast is still greater elsewhere - Thus in the 534 crimes committed in Cuddapah, 1180 persons are estimated to have been concerned, and more than half of them have been apprehended; yet in merely 171 cases in Ganjam no less than 2409 are supposed to have been concerned, and of these no less than 2437 in 157 cases still remain unapprehended.-

The

The following Statement exhibits the several Zillahs in the order in which they appear to stand to each other, with reference to the number of serious crimes in which none of the offenders have been apprehended - and the proportion their number bears to the number arrested in other cases.-

	No of cases ascertained.	No of cases in which none of the offenders have as yet been apprehended	Difference No. of cases in which some of the offenders have been arrested.	No of persons stated to have been concerned.	No of persons not yet apprehended.	Difference apprehended.
Madura	85	17	68	569	150	419
Malabar	222	47	175	677	92	585
Salem	163	40	123	611	278	333
Nellore	84	26	58	280	46	234
Combaconum	75	26	49	480	103	377
Tinnevelly	157	60	97	1159	365	794
Chittoor	280	124	162	725	306	419
Canara	253	122	131	653	335	318
Vizagapatam	188	92	96	1735	1357	378
Chinglepat	41	21	20	202	133	69
Bellaree	256	154	102	995	729	266
Coimbatore	345	204	141	780	407	373
Cuddapah	534	312	222	1180	576	670
Masulipatam	60	37	23	319	190	129
Verdachellum	126	85	41	530	401	129
Guntoor	105	69	36	313	184	129
Trichinopoly	90	65	25	474	403	71
Rajahmundry	241	198	43	802	657	145
Ganjam	171	157	14	2409	2437	32

Of the 856 persons released by the

24th Dec. 1829. 29 The Zillahs in which the greatest number of cases were before the District Police Officers, during this period, are the following.

	No of cases	No of persons
Bellarie	170	290
Canara	145	340
Chittoor	114	306
Coimbatore	141	373
Cuddapah	243	732
Malabar	223	620
Salem	157	448

30. Of the 1977 persons accused of serious crimes released by the District Police, 229 were released in Madura, out of the 339 who were brought before the District Police Officers of that Zillah, and against 101 of them the accusations are entered as wilfully false and malicious; 235 in Tinnevelly out of 379.- 50 out of 98 in Masulipatam; 308 out of the 620 in Malabar; and 104 out of 184 in Vizagapatam, against 53 of whom the accusations are entered as wilfully false and malicious.- The only other Districts, in which any considerable number of these serious accusations are considered malicious are Coimbatore and Malabar.-

31 Coimbatore, 105 Cuddapah, 145 Malabar, 132 Salem, 109 Canara 92 and Chittoor 97 are the Zillahs in which the cases sent by the District Police Officers to the Criminal Judges are the most numerous.- And in Cuddapah and Malabar 101 14 the

24th Dec. 1829.

the largest number remained undisposed of at the close of the reports.

32 The Magistrates before whom there were the greatest number of serious crimes during the same period, were those of the following districts.

	No of cases	No. of persons.
Canara	47	154.
Chittoor	48	113.
Madura	37	140.
Malabar	35	123.
Vizagapatam	44	204.

33. It is remarkable that before the Magistrates of Bellary and Cuddapah, there was the same number of cases, Viz. 24 though in the one Zillah they included 125 persons and in the other only 57.-

34 The Court have been forcibly struck with the fact, exhibited in this Statement, that in the extensive District of Coimbatore, in which, after Cuddapah, the greatest number of crimes is ascertained to have been committed, during the half year embraced in these reports, but one case including 2 persons which was sent to the Criminal Judge, appears to have been brought before the Magistracy, and this also for a crime committed before the commencement of that period. In Guntoor also there appear to have been only 2 cases of serious crime before the Magistracy.-

Of

5. J. H.

24th Dec. 1829.

35. Of the 850 persons released by the Magistracy, 760 against 32 of whom the accusations were malicious, out of only 204, were released by the Magistrate of Vizagapatam; 54 out of 70, by the Magistracy of Tersachellum (South arcot); 76 out of 80, in Tinnevelly; 29 out of 47, in Nellore; 20 out of 27, in Chinglepat; 92 out of 154, in Canara; 63 against 23 of whom the accusations were malicious, out of 113, in Chittoor; 30 out of 57, in Cuddapah; 118 out of 140, in Madura; and 73 out of 123 in Malabar.

36. The greatest number of cases sent up to the Criminal Judge by the Magistracy was 25 in Chittoor - In Canara there were 17, in Cuddapah 13, in Combaconum (Tanjore) 12, in Malabar 11 and in Salem 11.-

37. Of the cases not disposed of by the Magistracy, the most numerous, if the reports are to be depended upon, were in Vizagapatam, in which District there are entered 45 such cases containing 387 persons; but there seems reason to believe that this statement is erroneous - In Bellarce and Ganjam, the Magistracy had the same number (6) of cases not disposed of - In Masulipatam there were 5, and in Canara 4 - In 9 Zillahs however there remained none undisposed of, and in the rest only 2 or 3 cases.-

38 In this statement No 4 also

inaccuracies

inaccuracies are found: For instance, the total (340) in Column 8, of persons brought before the District Police in Canara, is less than the total of the 3 preceding Columns shewing the particulars. In the original statement from the Magistrate of that Zillah the two Columns 6 and 7 of cases and persons brought before the District Police for theft, correspond with Column 8 in the total of cases, but there is a difference, in the last column, of 1 in the total of persons. Again in Column 12 of this Court's statement, there are entered as not disposed of by the District Police at the close of the report, in Trichinopoly 2 persons, and in Vizagapatam 55 persons, who are in excess of those mentioned in the preceding Columns, shewing the persons brought before those officers. On referring to the original report from the Magistrate of Trichinopoly, the error is found to be in the entry of persons brought before the District Police for Highway robbery. And in the Vizagapatam Magistrate's statement, the discrepancies appear in the entries of Gang Robbery and House breaking by night, for which two crimes 55 persons are returned as not disposed of by the District Police, who are not included in the Columns of persons brought before them, as they ought to have been. In the same way in Column 20 of this Court's genical statement, 45 cases containing 387 persons are entered as not disposed of by the Magistrate of Vizagapatam, who are not accounted for in either of the Columns 13. 14. or 15. In the original statement furnished by that Magistrate, those are found to comprise the whole of the cases and persons inserted in Column 20.

No 5 & 6.

39 The Statements Nos 5 and 6 exhibit the operations of the Criminal Courts for the same period.

By the first of them it appears

40 that the Grand total of cases before those Courts during the six months, including the cases not disposed of at the close of the last Reports, was 1699, including 4024 persons; of which 80 were Murders, 25 Cases of Culpable Homicide, 21 of Robbery and Murder, 243 Gang Robberies, 42 Robberies by single individuals, 239 cases of House breaking by night, 403 Thefts, 124 cases of receiving stolen goods, 38 of Arson, 20 of Forgery, 18 of Perjury, 124 cases of Maiming and wounding, 39 Breaches of Revenue laws, 70 affrays &c. &c. Of the persons so brought before the Criminal Courts, in cases determinable by them, 952 were released unconditionally, of whom the charges against 26 appeared to be wilfully false and malicious; 152 released on security,

rity; and 223. detained on demand of Security - The whole number convicted and punished is entered 918, but it appears that 450 were imprisoned, 110 fined, 46 flogged, 91. both imprisoned and fined, and 289 both imprisoned and flogged, making a grand total of 956 or 38 more. - There were also 349 persons released for want of evidence, in cases punishable by the Courts of Circuit - The cases committed for trial before the Courts of Circuit, amounted to 300, containing 967 persons; and there remained undisposed of by the Criminal Courts at the close of the reports 139 cases containing 355 persons - being 47 cases and 65 more than at the commencement of the half year.

*Owing to errors in the Salem Statement, as noticed in a subsequent part of these proceedings. -

41 By the Statement No 6 shewing the particulars for each Zillah, it appears that by far the greatest number of cases brought before the Criminal Courts was at Salem, which had altogether 328 including 1021 persons - The next largest number was before the Cuddapah Criminal Court viz: 192 cases including 625 persons - The Chittoor Criminal Court had 125 with 338 persons, and that of Malabar 101 including 217 persons - The smallest number, excluding the Auxiliary Courts, was before the Criminal Court of Masulipatam at Rajahmundry which had 42 cases including 133 persons -

42 The cases committed for trial before the Courts of Circuit were also most numerous in the Salem Criminal Court, amounting to 63 including 181 persons, whereas in the Cuddapah Court, the next in point of numbers, they did not

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not exceed 30 including 84 persons -

43 At the close of the reports, there remained undisposed of in the Criminal Court of Chittoor 28 cases including 70 persons; in that of Malabar 17, with 43 persons; and at Cuddapah 15, with 54 persons - At Salem there were only 11, including the same number of persons -

44 The reports from which these Statements have been compiled, exhibit more errors than all the rest, but these are ones which might not have been easily obviated if care had been taken in the first instance to see that the proper columns corresponded, and if, as in some of the Statements, the different columns had been added up and the total of each inserted at its foot - They might also have been speedily rectified if the reports had been examined with due attention by the Provincial Courts - The Court of Foujdaree Adawlut take the present occasion to impress not only upon the Magistrates and the Criminal Courts but upon the Judges of the Provincial Courts also the great importance of having these, as well as all other periodical reports as free from error as possible, which it is obvious cannot be effected, without a uniformly diligent enforcement of their orders, for the careful revision and correction of them - It is also to be borne in mind by the Provincial Courts that they are bound to correct the errors of the subordinate tribunals which these returns are calculated to elucidate - to rouse the energy of the Magistracy by their exhortation

and

and to enforce promptitude by the Criminal Courts. Whilst they ought to submit to this Court any observations these returns cannot fail to suggest.

45 Of the 190 persons entered in Column 5 of the Provincial Courts' Statement, as having been brought before the Canara Auxiliary Court, only 125 are accounted for in the subsequent columns. The 65 thus omitted, is observed to be the total of Column 3 in the original statement of the Joint Criminal Judge. There is a similar failure to account for 319 of the 925 persons reported to have been brought before the Criminal Court of Cuddapah and also for 11 of the persons brought before the Salem Criminal Court. The statement however, from this last Court, is full of discrepancies, very few of the columns being found to correspond which ought to do so; and in the different columns of punishments under Nos 8, 38 persons are entered over and above those inserted in Column 7 as the total convicted and punished. In the statement of the Salem Auxiliary Court too, the 179 is found to be the whole number of persons brought before the Court, 181 are accounted for in the subsequent columns of particulars. The error appears to be in the entry of Thefts, for which 2 persons are shewn to have been not disposed of at the close of the report who are not included in the columns of persons brought before the Court.

46 The statement from the Malabar Criminal Court likewise exhibits numerious discrepancies, and contains in the columns of acquittals

acquittals, punishments and undisposed of, 43 persons more than are shewn to have been brought before the Court.

Nos 7 and 8

47 These Statements exhibit the operations of the Courts of Circuit for the same period.

48 The Grand total of cases of every description which came before those Courts during the six months under review was 299, including 790 persons; of which 44 were murders, 7 cases of Culpable Homicide, 8 of robbery and Murder, 100 Gang Robberies, including 317 persons, 43 cases of House breaking by night including 103 persons, 26 of Maiming and wounding, &c &c.

49 Of the persons acquitted by the Courts of Circuit, 278 were released unconditionally, against 42 of whom the accusations appeared to be wilfully false and malicious; and 69 were ordered to be released on Security.

50 The number convicted and sentenced to punishment by the same Courts, was 220; of whom 20 were flogged and imprisoned for a term exceeding 7 years, 27 similarly sentenced for a term not exceeding 7 years, 43 imprisoned for 7 years and upwards without flogging, 135 for 7 years and under, and 1 fined and imprisoned.

51 There were 55 Trials, including 140 persons, referred to the Foujdaree Adaulut during this period in 29 of which the Futwas were concurred in by the Courts of Circuit, but the

nature

nature of the offences made the trials of necessity referrible, and the remaining 20 were referred because the Courts of Circuit did not approve of the Fiatwas - 25 cases including 68 persons, were postponed by the Courts of Circuit to the next Sessions.-

52 The Statement for each Division shews, that there were before the Centre Circuit Court 98 cases including 277 persons, of whom 81 were released unconditionally, and 15 on Security; 74 sentenced to punishment; 78, in 25 cases, whose trials were referred to the Foujdaree Adaulut; 28, in 7 cases, whose trials were postponed; and 1 died.- Before the Southern Circuit Court, 81 cases including 273 persons, of whom 104 were released unconditionally, and 35 on Security; 92 sentenced to punishment; 23, in 9 cases, whose trials were referred; 11, in 6 cases, whose trials were postponed; and 8 returned to the Criminal Court - Before the Western Circuit Court there came only 66 cases including 139 persons; of whom 69 were released unconditionally; the accusations against 21 of them having appeared to be wilfully false and malicious, and 7 on Security; 29 sentenced to punishment; 26, in 10 Cases, whose trials were referred; and 8, in 6 cases, whose trials were postponed - And before the Northern Circuit Court there came only 54 cases including 107 persons, of whom 24 were released unconditionally

and 12 on Security; 31 sentenced to punishment, 13, in 5 cases, whose trials were referred; and 21, in 6 cases whose trials were postponed -

No 9

53 The last Statement exhibits the operations of the Foujdaree Adaulut for the same period of six months:-

54 It shews that at the date of the last report, the number of trials not disposed of amounted to 39 including 121 persons; and that there were received during the half year 49 more including 167 persons; making together 88 cases including 228 persons; whereof 45 were murders 8 cases of robbery and murder, and 14 Gang Robberies - Of these, 59 trials including 163 persons were disposed of during that period, leaving only 29 cases including 59 persons (6 having died undisposed of on the 30th June last being 10 cases, and 62 prisoners less than were in arrear at the commencement of 1829 - Of the said 163 persons disposed of by this Court within the last half year 70 were released unconditionally, the accusations against 24 of them appeared to be wilfully false and malicious. 31 were ordered to be released on Security - 38 were convicted and sentenced to punishment, of whom 5 were sentenced to death, 4 to be flogged and transported, 4 to be transported without flogging, 2 to imprisonment for life, 4 to be flogged

flogged and imprisoned for more than 7, and not more than 14 years, 2 to simple imprisonment without flogging, 9 to be flogged and imprisoned for 7 years and under, and 28 to similar imprisonment without flogging.-

55 The number of trials disposed of under Section II Regulation I of 1818. (awarding the finding of acquittal) was 69 including 30 persons; in 39 of which the finding of acquittal were founded on personal exceptions to the witnesses, and in the remaining 6 on the insufficiency of the evidence - In these cases the prisoners were sentenced as follows, to death 2, flogging and transportation 1, transportation without flogging 2, flogging and imprisonment for 7 years and under 2, and to imprisonment for 7 years and under without flogging 23.-

56 The grounds on which the findings were over ruled in the said 9 cases, will be found detailed in an appendix to these proceedings.-

57 In order that the several Criminal tribunals may correct, for the future, the errors pointed out in the present returns - and that the Provincial Courts may understand the duty of revision thereby expected from them, in transmitting the same, it is resolved to communicate copy of these proceedings to the 4 Provincial Courts for the information and guidance of themselves as well as of the several tribunals under them.-

(Sent following circular No 459)

Ordered also that a Extract from these proceedings be submitted for the information of

Government, by whom it is hoped the new forms of the Criminal returns will be found to have answered the purposes intended.-

(Sent following letter No 457)

Appendix

The following is an Abstract of the grounds of Conviction in the 9 trials disposed of by the Foujdaree Adalut under Section II Regulation I of 1818 during the first six months of the current year or from the 1st January to the 30th June 1829, required to be submitted to Government for the information of the Honorable the Court of Directors, agreeably to the Judicial Secretary's letter dated the 15th April 1828.-

No 2 Rajahmundry Supplemental Calendar 2d Session of 1829.

Prisoner Bunlah Venkadoo

This prisoner was charged with having been one of a Gang of armed Robbers who broke into the House of the prosecutor, wounded him with a spear, and robbed him of jewels and other property to the value of Rupees 20 — 12 — He was convicted by the Law Officer of the Court of Circuit of having been concerned in the Robbery and of having wounded the 2d witness and declared liable to Corroboration; but by the futwa of the Cazee ool Cogat and Mooftees of the Foujdaree Adawlut the prisoner was acquitted, on the ground, that of the three witnesses for the prosecution, the evidence of the first and third was unworthy of credit

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on account of its contradictions, and that of the second because it involved a complaint - The Court however concurred in the Circuit Judges view of the case, and did not consider the variations in the evidence, pointed out in the futwa, to be such as to discredit the witnesses - The opinion of the Circuit Judge was, that "there could not be any doubt from the consistent evidence "of the three witnesses for the prosecutor, and from the "prisoner's own admissions, that he was of the party "who committed the robbery, and who wounded the prose-cutor - nor could there be any reason to doubt the facts of his "apprehension as stated by the witnesses, and of his "having severely wounded the 2d witness," so severely that according to the reports of the Village Police Cur-rum and of the Head of Police, he was scarcely expected to survive -

The prisoner was an old offender, and was under a sentence of seven years' imprisonment and hard labor for a Burglary, when he effected his escape from Jail - Under these circumstances the Judge sentenced him to receive one hundred lashes with a cat of nine tails and to transportation for life, as prescribed by clause second, Section IV Regulation XV of 1803 and clause fourth Section II Regulation I of 1825 -

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No 9 Cuddapah Calendar 2d Sessions of 1828 -

1st Prisoner Selaman Khan
2d — Madega Condegadoo

These prisoners were charged with having severed one Beematah, and wounded one Nadregadoo and his father Chennaroyadoo, who pursued and seized them immediately after the Robbery - The

prosecutrix

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prosecutrix deposed before the Circuit Court that she was attacked by four persons, and that she recognized the two prisoners - Also that Chennaroyadoo and his son who apprehended the thieves, were wounded in so doing - The 1st Witness deposed, that on hearing a cry of thieves, he ascended a rock, in the jungle where the robbery was committed, and saw four persons running away - That he and Nadregadoo pursued them, at the same time calling to Chennaroyadoo and Bummun-boyadoo to seize the fugitives; on which two of the thieves ran in one direction, and two in another - That they followed the prisoners, and succeeded in apprehending them - That the first prisoner wounded with his sword Chennaroyadoo on the arm and Nadregadoo on the Shoulder - And that he heard Chennaroyadoo had afterwards died - The 2d Witness, Nadregadoo, confirmed this statement, adding, that he saw the prisoners taken in the act of robbing the prosecutrix; and that he understood his father's death was occasioned by the wound, which he received from the 1st Prisoner, having been neglected - The 3d Wit-ness Bummunboyadoo's deposition corresponded with those given by the two first witnesses - The futwa of the Cazee ool Cozat and Moof-tees of the Foujdaree Adalut acquitted both prisoners, rejecting the evidence of the 2d Wit-ness on the ground that it involved a com-plaint; and declaring the first and third witnesses unworthy of credit, the first on account of contradictions in his evidence, the third because

independently

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independently of his being a Jinmee (not a Mohammedan) his testimony stood alone - A second futwa was therefore taken to remove the exceptions to the second and third Witnesses; when the 1st prisoner being sentenced to Tazeer; was adjudged to imprisonment with hard labor for fourteen years; and the Court being of opinion that the evidence against the second prisoner was sufficient to convict him of aiding in the crime charged, convicted him thereof and under clause fifth Section IV Regulation XV of 1803, adjudged him to imprisonment and hard labor for five years.-

3

No 19 Comba concern. Calendar 1st Sessions of 1828.-

In this case thirty five prisoners were concerned, who were charged with having attempted by violence to break Jail - Before the final sentence was passed, the tenth and nineteenth prisoners died in Jail; the fourth twenty fifth and twenty eighth were released by order of the Judge on Circuit; and the third, sixth, seventh, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, twentieth, twenty first, twenty second, twenty third, twenty fourth, twenty ninth, thirtieth, thirty first, thirty second and thirty third were acquitted There thus remained only nine prisoners viz.

1st Thee moorooguin
2d Vallien
5th Sillalee
8th Mootien, son of Kylasem
9th Mootien, son of Periatomby
26th Veerapen
27th Cora Rungun
34th Pulla Cupen and
35th Poranekelan

on whom sentences were passed by the Jury dare vesatut.-

The futwa admitted that the witnesses from the first to the seventeenth (the ninth excepted) deposed to having seen all these nine prisoners attempt to effect their escape, but objected to their evidence on two grounds, 1st that they, the witnesses, contradicted each other; and 2dly, that they appeared in the light of prosecutors - The Court however could not discover any contradictions of such a nature as to discredit the evidence, which according to their view of it, went to convict all the prisoners, for they all appeared to have taken an active part in the insurrection - They were accordingly convicted and sentenced severally to imprisonment and hard labor for the period of three years, in addition to any former sentence which might be in force against them.-

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№ 5 Salem Calendar 2d Sessions 1828.-

1st Prisoner Paroomah

2d —— Naughee (Females)

In this case the first prisoner was accused of having murdered the daughter of the prosecutor and stripped her of her ornaments, and the second was charged with having aided and abetted therein - The Court concurred in the finding so far as it acquitted the second prisoner, and directed her to be set at liberty.-

It was deposed by the 1st witness, whose statement was corroborated by the 2d witness, that the deceased who was about 8 years of age, having gone out to play, and not returned as usual, every search was made after her but in vain - That on the following day he and the 2d witness explored all the wells and at length found the body of the deceased at the bottom of one - That there were scratches on the nape of the neck, and the beads which the deceased wore were missing - That in consequence of the 1st prisoner having been seen giving the deceased some sweetmeat on the day preceding, he suspected her and complained to the Tahsildar, who thereupon searched her house, and found there tied up in a cloth and concealed in the roof, the Gold beads - That upon this discovery the Tahsildar took the prisoner to the Talook Cutcherry

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and examined her; and she then declared that whilst the deceased was washing her legs in the well, she pushed her into it, having first taken from her person the beads she was then wearing - The 3d witness accompanied the Tahsildar to search the first prisoner's house and deposed to her being present when the beads were found there - And the 4th and 5th witnesses were present during the examination of the prisoners before the Tahsildar.-

In his report accompanying the trial, the Circuit Judge observed that the 1st prisoner stated her age in Court to be only 10 years, but that she was to appearance a stout young woman of 15 or 16, and fully able from physical power to have put the girl to death.-

The Juries rejected the evidence on the ground not only that the confession had been given before a Police Officer and that the attesting witnesses were Police Peons, but also that the first prisoner could not be legally convicted on this confession because she was under age - The Court however were of opinion that the evidence was conclusive of her guilt, and convicted her accordingly, the sentence, in consideration of her youth, being mitigated to transportation for life.-

5

№ 8 Salem Calendar 2d Sessions 1828.-

There were three prisoners in this case, of whom the first died in Jail before the

24th Decr 1829 the final sentence was passed - The names of the others were

2d Jamaul Khan
3d Shaik Ayder

The prisoners were charged with having committed a rape upon the body of the prosecutrix Lutchmee, and stolen 10 Rupees from her person. The robbery was not proved; but the Court entirely concurred in opinion with the Circuit Judge that with respect to the main charge there could not be the slightest doubt of the guilt of the prisoners - It was a gross case; but it seems unnecessary to go into any of the disgusting details, for not only did the prisoners give full confession before the Tahsildar (and to the evidence that they did so voluntarily, no suspicion attached) which with the exception of the alleged taking the 10 Rupees, accorded in every respect with the prosecutrix's statement, but the proof was, for a case of this nature, unusually clear and direct - A boy aged 12 years, whom the Circuit Judge described as "sharp and intelligent for his years," swore that he witnessed the act - The woman in whose house the prosecutrix and her mother were staying on the night in question, proved the fact of her having been taken away by the prisoners, who called themselves Cutwals of Peons and pretended that the Cutwal had sent for her - And two other witnesses stated that they found the prosecutrix and the prisoners in the place

the Tahsildar

24th Decr 1829 - place described by the first witness the boy, and to which they had been attracted by the prosecutrix calling out -

The Justices rejected the confessions because they had been given before a Police Officer, and discarded the testimony of the first witness on account of his non age, and that of the second witness on the three grounds, of her religion, her Sex, and of contradictions in her deposition - The Court however, for the reasons above stated, considering the evidence sufficient, convicted the prisoners accordingly, and under clause third Section VII Regulation XV of 1803, sentenced them to receive each one hundred and fifty stripes with a Cat of nine tails and to be imprisoned and kept to hard labor for the period of seven years -

6

No 10 Salem Calendar 2d Sessions 1828 -

1st Prisoner Vencatapattee Naick
2d — Soobee Naick

The prisoners, of whom the first was a Vakeel of the Zillah Court and the second an Ex - Deloget, were accused of wilfull and corrupt perjury, in having when giving evidence upon a complaint preferred by one Semboye, a female, falsely stated on oath before the Magistrate of Salem on the 14th June 1828, that they saw Runga Row the Tahsildar of Salem, on the 29th May preceding

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preceding, during the Coach feast at Salem, strike a man named Colunda Counden with a bamboo cane, who in consequence fell down under the wheel of the Coach, which going over him, he was killed on the spot; whereas in truth and in fact the deceased, who with others was employed to drag the Coach, happening to fall when it moved rapidly down hill, the wheel passing over his body, crushed him to death, the Tahsildar being at the time of the accident at a considerable distance in the rear of the Coach.

It was observed in the factum, that "the first, second, and third witnesses "deposed that the Tahsildar was not there at "the time; that he was behind the Ruth (or Coach), "when the fourth witness, a Ruffadar, came and "reported that a person had fallen under the "wheel of the Ruth, and had been killed; and "that they (the Witnesses) did not see the "Tahsildar strike the deceased. The fourth "witness deposed that he gave the information "abovementioned. The seventh, eighth, and "tenth witnesses deposed that the rope of the "Ruth, held by the deceased, becoming "slack, he let it go, and fell down, when "the wheel of the Ruth passed over him and "crushed him to death; and that at that "time they did not see the Tahsildar there."

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The factum then proceeded: "Hence although "the evidence of the witnesses for the prosecution "contradicts that given by the prisoners, yet "the falsehood of the prisoners is not establish- "ed with certainty, because the probability "of falsehood is equal between their evidence, "and that of the witnesses for the prosecution, "nor can a conviction of perjury be founded "on such conflicting testimony."

It is recorded however, in the notes of the Court on the trial, that "there "never was a clearer conviction". It ap- peared to the Court that the prisoners had entirely failed to prove by their witnesses, that the deceased met his death by being struck by the Tahsildar and knocked under the Coach when it was passing rapidly along; whilst on the other hand it was quite clear, from the evidence for the prosecution, and from the Circuit Judge's report in corroboration of the correctness of the ground plan which had been made of the street (in the Town of Salem) where the accident occurred and through which from its being very near the Court House, the Judge had frequent opportunities, both before and after the trial, of passing, that the deceased was killed by accidently falling down and the wheels of the Coach passing over him, and that

that the accident certainly could never have been witnessed by the first prisoner from any part of his house where it was clearly proved he was at the time; and that the second prisoner could not have seen the Tahsildar strike the deceased, was satisfactorily shewn by the evidence of several witnesses who proved that at that time the Tahsildar was in the rear of the Coach, whereas the deceased was in the second line in front of it - The Court accordingly overruled the Jurors and under Clause First Section III Regulation VI of 1811, sentenced the first prisoner to be publicly exposed, in the mode commonly denominated tashees, and to be banished to the Nellore Billah and there imprisoned and kept to hard labor for seven years and the second prisoner to be imprisoned and kept to hard labor for four years, without exposure or banishment, he being a relation and evidently a mere tool in the hands of the first prisoner.-

No 12. Salem Calendar 2d Sessions 1828.-

There were originally eight prisoners in this case, but the third fifth and eighth having died in Jail, sentence was passed only on the remaining prisoners viz.

1st Cauvary
2d Cooliah
4th Cotamungalem Palney

6th

6th Madena Mooten and
7th Cailly.-

The Charge against the prisoners was that they had on Friday night the 18th July 1828, by violence and torture, murdered one Settya coinden.-

The Jurors simply observed that none of the witnesses deposed either that they saw the prisoners commit the crime charged, or heard them make confession thereof.-

There was nothing but circumstantial evidence in this case, but that appeared to the Court to be of the strongest kind - The following notes were recorded by the Court on the trial: "It is perfectly clear that the deceased came by a violent "death, and that his murderers attempted "to make it appear that he had been his "own executioner. It is also perfectly clear "that he had been kept in illegal confine- "ment by the 1st prisoner on a pretended "suspicion of theft. Then there is evidence, "which the Court see no reason to distrust, "that the prisoners during the night left the "Cow shed, where they and the deceased "were sleeping, and that on their return "they said that the deceased had made "his escape - The prisoners, some of them "at least, returned a little before day light.-

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"In the next place there is the evidence of the "3d and 4th witnesses to prove that a voice like "that of the 1st prisoner was heard uttering a "remarkable exclamation near the spot where "the dead body was afterwards found - This was "during the time that the prisoners were absent "from the Cow shed, as appears very clearly from "the evidence - The next remarkable circumstance "is that the 3d 4th 5th and 6th prisoners should "have gone to the Village Moonsif to report the "escape of the deceased - This was before the "dead body was discovered; and appears to the "Court very suspicious. The simple escape of the "deceased was of no consequence whatever to these "prisoners - They had not charge of him, and "some of them at least were under the same "restraint as the deceased, and apparently for "the same cause - The Village Moonsif had "expressly ordered the 1st prisoner to release the "deceased - This order the 1st prisoner disobeyed "and that makes strongly against him -, and "renders it the more extraordinary that the 4 "prisoners abovementioned should have gone to "report the escape of the deceased - The Court "think it must be inferred that they knew "what had happened, and took this method "of diverting suspicion from themselves - "After the most anxious consideration of "the case, the Court are satisfied that the

prisoners

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"prisoners were all more or less concerned in the "murder, and that the 1st prisoner was evidently "the principal, the others being merely his tools."

They were accordingly convicted and sentenced, the first prisoner to transportation for life, and the others to imprisonment and hard labor for seven years.

The following Extract from the Circuit Judges' report on this trial will explain more satisfactorily the grounds on which the above sentence was passed, the Court having taken precisely the same view of the case that he did:-

Para 30 "Upon a careful consideration of the evidence in this case it has I think been satisfactorily established that on the night of the deceased's death, ie Friday, he was taken to the house of the 1st witness Cotacundy by the Prisoners, and on the following morning he was found dead under a Tree near the Village -

31 It further appears by the evidence of the said Kotakundy and of the 2d witness Perry Ummal who both slept in the same house with the prisoners and the deceased on the night in question, that on their awaking during the night, they found all the prisoners and the deceased had left the house -

32 It is further proved that during the same night the witness Mullacoundan

from

from seeing a crowd round the house of the 1st Witness, suspected some harm to the deceased by the Corawars (or prisoners), and he therefore called for and took with him the next witness Pulliah Counden in search of the deceased, and that during their search they heard in the first instance some persons talking together in an undertone outside the village, and at no great distance from the spot where the body was found, and that presently after they heard the 1st prisoner in the same place make use of the remarkable expression of "Have you put a stone on my head"

33 These witnesses also state that before it was day light and before the body had been discovered they told the next witness Shettya counden that they suspected some harm to the deceased from the Corawars (Prisoners), and the latter witness says he in consequence immediately sent for the village Moonsiff Rajah Counden, the next and last witness, who deposes that he ordered the prisoners not to keep the deceased and the woman in confinement, which orders they disobeyed. This witness also minutely examined and described the marks which he saw on the body of the deceased.-

34 The fact of the deceased being under the charge of the prisoners at the time of his death being as I conceive indisputable

indisputable, the question for consideration is whether he destroyed himself or whether he was murdered by others.-

35 I must confess that upon a first view of the proceedings of the Tahsildar and Criminal Judge the impression upon my mind was, that from the shame and disgrace which had been heaped upon him having in presence of all the Inhabitants of the village been accused of the robbery of his relation's house, the deceased had destroyed himself; but a careful consideration of the evidence given on the trial, and more particularly that which relates to the finding and appearance of the body, induced me to change my opinion altogether.-

36 From the posture in which the deceased was found with a rope round his neck, with one end of it tied to the branch of a tree, it was clearly the intention of those, who were instrumental in taking away his life, that it should appear that he had been his own executioner, but that he was not so, is in my judgment clearly and satisfactorily proved by all the witnesses who saw the body, who depose that there were no marks of strangulation or of anything having been drawn tight round the neck which was not dislocated,

or

24th Dec 24th Dec.r 1829.

on the contrary they say that the rope was so slack that 2 fingers might have been inserted between it and the Neck - There can therefore be no doubt that the deceased did not hang himself and the only circumstance which renders this case so mysterious and so difficult to account for is the appearance of the body, which the evidence had no wounds upon it of a nature, likely to occasion death -

37 How therefore his death was effected, except by suffocation it is difficult to conjecture; my impression from the facts which came out in the trial, is, that the 1st prisoner Canvary with the assistance of the others on Friday night took the prisoner out of the house where he had him in confinement, in the dead of the night to the spot where he was subsequently found, in the expectation of frightening him into some sort of confession, that would enable him to discover the theft which had been committed in the house of Curpak Comba in his village, and that the deceased not complying with his wishes he had recourse to torture, a too common expedient, which he carried too far, and which at last ended in death -

38 It is proved that there was no enmity between the deceased and the prisoners

24th Dec.r 1829. prisoners; and that they did not murder him for his property is clear from the fact that all clothes &c.a as he wore them when living were found upon him at his death, it is therefore difficult to assign any other motive for putting him to death excepting the one which I have ventured to suggest, and which I firmly believe to have been the real cause."-

8

No 7 Salem Auxiliary Court, or Coimbatoor Calendar.
2d Sessions 1828.-

Of nine prisoners in this case, the ninth was released by the Circuit Judge, and the seventh died in Jail - The remaining prisoners, who were finally sentenced, were

1st Armoogum
2d Parata
3d Sudy
4th Vattaram Chitty
5th Nunjuppa Chitty
6th Ramen and
8th Pullecodatan

The prisoners were accused of having in the night of the 1st August 1828, severely wounded and ill treated a woman named Mootyee, of which ill treatment She eventually died on the 13th of the same month -

The Jurors of acquittal in this case also was grounded on the fact that none of the witnesses had deposed either to having seen the

24th Decr 1829 the prisoners commit the crime charged or to having heard their confession of the same - But as in the last case, the Court entirely concurred in the opinion with the Circuit Judge that the prisoners were guilty - The most important evidence was contained in the deposition taken from the poor woman herself only two days after she was wounded; when she gave a most clear and consistent account of the whole transaction, and positively identified all the prisoners above named, describing the part that each had taken in it, and other material circumstances, from which and from the corroborant testimony of the 1st Witness her paramour, it appeared that the prisoners were all her relations, the 5th prisoner being her father; that after the death of her husband she had formed a connexion with the 1st witness, which had given rise to a feeling of enmity against her from an impression that her jewels and property would be given to him instead of remaining in the family; and that it was for the avowed purpose of getting possession of these that they used the violence they did on the night in question, when they visited the house in which she and the 1st witness were sleeping together - There was no reason to suppose that the prisoners intended to go the lengths they did, or even seriously to injure the deceased; and in all probability according to the evidence of the Assistant Surgeon,

24th Decr 1829 Surgeon, if she had been properly treated in the first instance, death might not have ensued. It was however quite clear that the injury she had received, ultimately led to her death - The Court having on a consideration of the whole evidence, convicted the prisoners, sentenced them according to the recommendation of the Circuit Judge, viz: the two first prisoners, who appeared to have occasioned to the deceased the most serious injury, to two years imprisonment and hard labor each, and the remaining prisoners to half that punishment -

9.

No 2 Malabar Auxiliary Court 4th Quarterly Sessions 1828 -

Prisoners

1st Malayan Kapatil Chandoutty

2d Pootanpoail Ekaran; and

3d Cokenkate Amboo

The prisoners were charged with having one night entered the house of the Prosecutor Soor Singh, a Sepoy in the Cantonment of Cannanore; murdered his wife Lutchmee by cutting her throat; and robbed the house of property to the value of 80 Rupees and odd -

It seems sufficient in this case to give an Extract from the Notice of the Case and then to subjoin the notes of the Court in the trial - It was observed in the Futwa, "the declarations of the first and second prisoners, taken

24th Dec. 1829.

24th Dec. 1829.

"taken before the Joint Criminal Judge, which
"are proved by the tenth and eleventh witnesses,
"contain their respective confessions that they
"went with others and robbed the prosecutors house,
"each imputing the murder of the deceased to
"the other - The second and third witnesses depose
"that certain jewels and other articles before
"the Court were found in the first prisoner's
"garden; and the eighth and ninth witnesses
"depose that some of these articles belong to the
"prosecutor - Hence the first and second pri-
=soners are convicted of the crime of robbery
"by their former confessions; and, the Budd-
"of robbery being barred by their present denial,
"they are liable to Bohoolut - No crime is
"established against the third prisoner and
"he should be set at liberty."-

The Court confirmed so much of this fatwa as acquitted the third prisoner, but considering that strong suspicion, though not amounting to conviction, attached to him, directed that he should be required to find two Sureties in fifty Rupees each, for his good behaviour and appearance when required, within three years, or in default thereof that he should be detained for three years in confinement.-

The Judges however thought it impossible to doubt the guilt of the first and second prisoners - In fact the same evidence which convicted them of the robbery, convicted them of the murder - They accordingly overruled that part of the fatwa and approved of the recommendation of the Judge who presided at the trial, that the said two prisoners should be hanged in chains on a spot near the place where the crime was committed.-

F. R.
24th Dec. 1829.

Read Criminal Cause Petition from Tamaselly of Pittamoa in the Zilla of Chingleput -

Referred to Cir. Jet. 24 of 1829.

The petitioner complains of several acts of illegal oppression by individuals against him, and states that the Tahsildar of Karungooly declined to investigate them and that, on his appeal to the Cutcherry Magistracy, he was by them referred to the same Tahsildar.-

This is confirmed by an endorsement of the Third Judge of Circuit in the Centre Division, stating the Magistrate in Chingleput to have reported that no enquiry had taken place in consequence of the Petitioner "never having appeared before the Tahsildar"

It was obvious by improper in the Magistracy to refer the party complaining to the very police officer of whose neglect he complained - and it was the duty of the Third Judge of Circuit to require the Magistracy personally to investigate every complaint made

24th Dec. 1829.

made against their native police Servants.
Ordered accordingly that a translation of the petition be sent to the third Judge of Circuit in the Centre Division, with a precept requiring him to issue these orders to the Magistracy without delay - return to be made in 5 days.
Ordered that the same be communicated to the petitioner.-

(Sent following precept No. 457 A)

Read miscellaneous petition from C. Venkoo, complaining of the decision passed by the Judge on Circuit in the case No 34 of the Cuddapah Calendar, for the Sessions of 1829.-

(Here enter F. Mis: pet: No 25 of 1829)

The Judges do not see any ground for questioning the propriety of the sentence passed in this case and direct that the prayer of the Petition be rejected accordingly.-

Eqr. W. Johnston.

F. C.

At a Court of the Foujdaree Adalut

Present,

Tuesday, 28th December 1829 — F. A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire — Judges.

Read letter dated the 7th instant from the Provincial Court of 4th Circuit in the Southern Division transmitting the Reports prescribed by Section XXXV Regulation X of 1816, from the several Criminal and Joint Criminal Judges in the Division for the month of October last, together with their proceedings thereon.-

(Here enter Form No 10)

Madura. 1. The Judges desire the Criminal Judge of Madura will remit that part of the sentence passed on the prisoners in Case No. 84. of the Supplemental Report which directs the prisoners to be kept to hard labour in irons during the period of their confinement in default of finding the security required from them. By clause first Section XIII. Regulation VI. of 1827 Criminal Judges were authorised to subject persons confined on security to compulsory labour, provided always that persons so confined "be "made to work separately from Convicts "and without irons."-

2. The same remark is applicable to cases No 86. and 88. of the Report No 5 submitted by the Criminal Judge of Madura.-

Cumbaconum 3. With reference to the remark of

28th December 1829. of the Criminal Judge of Combaconum on Case No. 120 of the Supplemental Report, the Judges desire the Provincial Court of Circuit will intimate to the Criminal Judge that by the Circular Order of the Foujdaree Adalut dated the 28th January 1828, provision is made for the punishment of prisoners charged with an offence for which the Regulations do not prescribe that any specific penalty shall be inflicted on the prisoner committed for trial before the Court of Circuit.-

4. The Judges are of opinion that security should have been required from the prisoner in Case No. 121 of the Supplemental Report, who was released for want of evidence to convict him.-

5. With reference to the extra-ordinary number of acquittals in Tinnevelly and to the recent orders of Government respecting the Judges of Circuit examining a few cases with the view of ascertaining the causes of such acquittals generally, the Judges direct that the Provincial Court do request the 2d Judge of Circuit, to examine and report on this point particularly, as regards the joint Criminal Court of Tinnevelly.-

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Southern Division desiring them to make the necessary communication to the Criminal Judges of Madura Combaconum; and to the Second Judge of Circuit. precept returnable within one week from and after its' receipt.-

/Sent following precept No. 460./

28th December 1829 Read the return of the Acting Judge on Circuit in the Southern Division to this Court's precept of the 10th November last on the case No. 1 of the Salem Calendar at the 2d Sessions of 1829.-

/Here enter No. 735./

1. From the calendar, it appears that a female witness sworn and examined before a District Moonsiff - had been again sworn and examined before the Shor Ameen, in appeal - and that she had been committed for trial for perjury in consequence of the evidence given in her second deposition.-

2. As it is quite unusual for a Higher Court, in appeal, to re-examine any witnesses who have given their testimony in the lower Court; and as this leads the superior tribunal to try and decide a suit upon evidence different from that upon which a judgement was passed by the lower tribunal, whose decree is appealed against, the Judges called for an explanation of it. But the return now made gives no information on the point upon which further information was required. Ordered therefore that the call be repeated to the Acting Judge late on Circuit and that return be required without delay.-

/Sent following precept No. 461./

Read return dated 22d instant from the Third Judge on Circuit in the Southern Division to precept dated the 15th instant directing the modification of the sentences passed on the prisoners in Case No. 3 of the Combaconum Calendar.-

/Here enter No. 742./

Eqo. W. Johnson

28th December 1829.

of the Criminal Judge of Combaconum on Case No. 120 of the Supplemental Report, the Judges desire the Provincial Court of Circuit will intimate to the Criminal Judge that by the Circular Order of the Foujdaree Udalut dated the 28th January 1828, provision is made for the punishment of prisoners charged with an offence for which the Regulations do not prescribe that any specific penalty shall be inflicted on the prisoner committed for trial before the Court of Circuit.-

4. The Judges are of opinion that security should have been required from the prisoner in Case No. 121 of the Supplemental Report, who was released for want of evidence to convict him.-

5. With reference to the extraordinary number of acquittals in Tinnevelly and to the recent orders of Government respecting the Judges of Circuit examining a few cases with the view of ascertaining the causes of such acquittals generally, the Judges direct that the Provincial Court do request the 2d Judge of Circuit, to examine and report on this point particularly, as regards the joint Criminal Court of Tinnevelly.-

Ordered that extract from these proceedings be forwarded to the Provincial Court of Circuit in the Southern Division desiring them to make the necessary communication to the Criminal Judges of Madura Combaconum, and to the Second Judge of Circuit. precept returnable within one week from and after its' receipt.-

Sent following precept No 460.

28th December 1829

Read the return of the Acting Judge on Circuit in the Southern Division to this Court's precept of the 10th November last on the case No 1 of the Salem Calendar at the 2d Sessions of 1829.-

Here enter No 753.

From the calendar, it appears that a female witness sworn and examined before a District Moonsiff - had been again sworn and examined before the Sudr Ameen, in appeal - and that she had been committed for trial for perjury, in consequence of the evidence given in her second deposition.-

2. As it is quite unusual for a Higher Court, in appeal, to re-examine any witnesses who have given their testimony in the lower Court - and as this leads the superior tribunal to try and decide a suit upon evidence different from that upon which a judgement was passed by the lower tribunal, whose decree is appealed against, the Judges called for an explanation of it - But the return now made gives no information on the point upon which further information was required. Ordered therefore that the call be repeated to the Acting Judge late on Circuit and that return be required without delay.-

Sent following precept No 461.

Read return dated 23d instant from the Third Judge on Circuit in the Southern Division to precept dated the 15th instant directing the modification of the sentences passed on the prisoners in Case No 3 of the Combaconum Calendar.-

Here enter No 742

24 U 20

Exd. W. Johnson

F. H.

At a Court of the Tongdarree Udalut.

Present,

Thursday 31st December, 1829 — F. A. Grant Esqre 1st Puisne Judge
James Cochrane Esqre 2nd Puisne Judge
William Oliver Esqre 3rd Puisne Judge

24th
20 H

Read letter dated 20th Ultimo from the Third Judge of the Provincial Court of Circuit in the Centre Division, with the Calendar of persons committed for trial at the fourth Quarterly Sessions of 1829 at Chittoor—

(Here enter No. 690.)

Government
&
Sippadoo
&
Ramapa Naidoo

In Case No. 1, so far as can be collected from the Calendar, there does not appear any proof whatever of the alleged robbery. The Court therefore desire the Third Judge will respite this trial, as well as No. 12, connected with it, and in the meantime direct that he suspend the sentence he has passed on the prisoners Sippadoo and Ramapa Naidoo—

Ordered that extracts of these proceedings be transmitted to the Third Judge of Circuit in the Centre Division by precept returnable without delay—

(Sent following Precept No. 466

Read

Read Letter dated the 12th Instant from the Additional Judge on Circuit in the Centre Division with the Calendar of persons committed for trial at the second Sessions of 1829, at Chinglepute.

(Here enter No 724)

No 1. The Court resolve to call for an English translation of the whole of the trial in this Case, and mean time to direct the Additional Judge to suspend the sentences he has passed on the eight prisoners.

No 3. 2. In this Case the Court resolve to call for English translations of the two contradictory depositions on which the prisoner has been committed for perjury.

No 5. 3. A second fatwa should have been taken in this Case, and the prisoner ought to have been sentenced to 7 years imprisonment in commutation of the amputation of one hand unless the Additional Judge considered a mitigation of the prescribed punishment to be proper, in which Case he ought to have applied for the sanction of this Court. The sentence however, already passed, of 5 years imprisonment, in this instance will not be disturbed by the Court.

No 6. 4. The same remarks apply equally to this Case.

No 16. 5. A second fatwa should have been taken in this Case, and the punishment imposed on the principal would have then been that to which he has been sentenced, but in commutation of the amputation of one hand.

6. With reference to the remarks contained in para 9 of Mr Waters proceedings of the 9th Instant, respecting the propriety of the Criminal Court admitting with difficulty any evidence on behalf of the prisoners to prove an alibi, when the prisoners themselves may have either confessed in the Sabah been identified at the period of the offence, or given up part of the stolen property, the Judges direct that if these proceedings have been forwarded to the Criminal Judge of Chinglepute para 9 thereof be recalled.

7. It is obvious that prisoners may be cajoled into confessions, or even into the production of property as stolen, or may be sworn to by others as recognized at the period of a robbery, when a well established alibi on their defence may prove the confessions to have been improperly obtained, the property either never to have come

come into their possession or to have been knowingly obtained, and the witnesses to have been mistaken as to their identity. At all events it would be most dangerous to exclude the Circuit Court, from receiving the evidence for the prisoners, in favor of an alibi, against the evidence given for the prosecution.

Ordered that extract of these proceedings be transmitted for the information and guidance of the additional Judge of Circuit in the Centre Division by Receipt returnable without delay.

(Sent following Receipt No 465

Read again letters dated respectively the 12th October and 24th November last from the Third Judge of Circuit in the Centre Division.

(Here enter Nos 629 & 703)

1. In the first of these letters the Third Judge submits a report agreeably to Clause First (second) Section III Regulation I of 1825, and Clause Fifth, Section IV Regulation XV of 1803, on the case of a prisoner tried by him in No 1 of the Calendar at the fourth Quarterly Sessions of 1829, in which he considered that a mitigation of the punishment prescribed by the 21st Regulations for the crime (highway Robbery) of which the said prisoner had been convicted, would be proper. The second letter

letter accompanied the record of the trial in the said Case, called for by this Court under date the 29th October last.

2. The Judges having attentively considered the proceedings held before the Judge on Circuit, resolve to authorize the mitigated punishment recommended by him, that is to say, four years imprisonment, with hard labor in irons.

Ordered that extract of these proceedings be furnished for the information and guidance of the Third Judge of Circuit in the Centre Division.

(Sent following letter No 466

Read letter dated the 17th instant from the Provincial Court of Circuit in the Northern Division submitting the Reports required by Section XXXV Regulation X of 1816, from the several Criminal and Joint Criminal Judges in the Division for the month of October last, together with their proceedings thereon.

(Here enter No 739.)

Referring to the Report No VIII of prisoners under charge of the Joint Criminal Judge to be tried

Masulipatam

W. Johnston

up to the 31st of the Month, the Judges are of opinion that the prisoner named Veerapah committed on a charge of "Manslaughter" should have been released on bail:-

Ordered that extract from these proceedings, be forwarded to the Provincial Court of Circuit in the Northern Division, desiring them to make the necessary communication to the Joint Criminal Judge of Masulipatam: precept returnable within one week from and after its receipt.-

(Sent following Precept No. 467.

Read letter dated the 28th July last, from the Third Judge late on Circuit in the Centre Division submitting the proceedings in case No. 19 of the Cuddapah Calendar 1st Sessions of 1829.-

Exp. W.J. 5

(Here enter No. 487.)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the fitness of the Provincial Law Officers and the fitness of the Cazee cool Cozzat and Mauftee of the Zillah do confirm the said fitness of the Cazee cool Cozzat and Mauftee aforesaid and

31st December 1829 and convicting the prisoners

1st "Chinna Ahaegadoo"
2nd "Goodah Nagaloo"
and
3rd "Venkatapah,"

of the crime of Housebreaking and theft, do approve and confirm the sentences passed upon each by the Judge on Circuit, that is to say that the said first and second prisoners do severally receive one hundred and fifty stripes with a cat of nine tails and be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of seven years, and that the said third prisoner do also receive one hundred and fifty stripes with a cat of nine tails, and be imprisoned and kept to hard labor in irons on the public roads or other public works for and during the period of two years. The punishment to commence from the date of the former warrant of the Judge of Circuit.-

(Sent following letter No. 465

Mr. Grant and Mr. Oliver.

Read letter dated the 2nd November last from the Third Judge late on Circuit in the Centre Division with record of the trial in case No. 1 Chinglepat Calendar 1st Sessions 1829.-

(Here enter No. 661.)

The

29th December 1829

The First and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the fiatwa of the Provincial Law Officer and the fiatwa of the Cazee wal Cozgat and Mooftees of the Foujdaree Adawlut, confirm the said fiatwa of the Cazee wal Cozgat and Mooftees aforesaid, and acquitting the prisoners,

1st "Sohanputtee,"
2nd "Comarasawmy "
and
3rd "Gunyan, "

direct that they be set at liberty.-

Sent following letter No 484

Read letter dated the 23rd July last, from the First Judge late on Circuit in the Northern Division, with record of the trial in case No 13 Chicacole Calendar 1st Sessions 1829.-

(Here enter No 483)

The First, Second and Third Puisne Judges having maturely considered the proceedings held before the Judge on Circuit, the fiatwa of the Provincial Law Officer and the fiatwa of the Cazee wal Cozgat and Mooftees of the Foujdaree, confirm the said fiatwa

31st December 1829

fiatwa of the Cazee wal Cozgat and Mooftees aforesaid, and acquitting the prisoners

1st Bonalah Lutchiegandoo,
2nd Benalah Appaya,
3rd Bonalah Canpiah,
4th Benalah Banpiah,
5th Boosah Cannaiah,
6th Bhoogata Appiah,
7th Yerrabhoogata Sunnasay,
8th Soonharee Chunnich,
and
9th Sannadhee Lutchmoodoo,

direct that they be set at liberty-

The Judges consider it would be dangerous in the highest degree to commit the prisoners on the evidence given in this Case- There is nothing to shew when or where, or upon what information the prisoners were taken into custody- There was no inquest on the dead bodies though the Police Officer at the time was not more than 10 or 12 miles distant from the spot; and the Judges doubt whether the evidence is sufficient to warrant a belief that the alleged murders actually took place- They think it moreover extremely probable that if the murders were committed, they were committed by strangers, and that the perpetrators and

and their witnesses took advantage of it to charge their enemies the prisoners, a very common practice in many parts of the country. The negligence of the Police in this case is most reprehensible, and the Judges direct that it may be brought to the notice of the Magistrate, for which purpose the First Judge will furnish that Officer with a copy of these proceedings and also of Para 18 of his letter accompanying the record of the trial.

Ordered that extract of these proceedings be transmitted to the First Judge of Circuit in the Northern Division for his information and guidance.

(Sent following letter 470)

Read letter stated the 25th July last, from the Acting Judge on Circuit in the Southern Division forwarding the record of the trial in case No 8 of the Madura Calendar 2nd Sessions 1829.

(Here enter No 486.)

The First, Second, and Third Puisne Judges of the Court of Fujdaree Adalut having duly considered the proceedings held before the Judge on Circuit, the futwa of the Principal Law Officer and the futwa of the Cazee ool Cazat and Mooftees of the Fujdaree Adalut, confirming the said futwa

of the Cazee ool Cazat and Mooftees aforesaid, and acquitting the prisoner "Doodman Pilly" direct that he be set at liberty.

So far as appears from the Record, the prisoner has been committed for trial, in ignorance of the evidence existing against him. For the testimony given in support of the prosecution appears to have been taken by the Acting Criminal Judge of Madura in April and the prisoner was not examined until the month of May. It also appears that he voluntarily surrendered himself to the Acting Criminal Judge in learning the charge that had been preferred against him. These facts bear strongly in his favor. Besides this, the prosecutor, before the Talook police, distinctly stated that he himself was not present during the affray, and that he could not say who struck his brother. His contrary depositions before the Criminal and Circuit Courts are viewed by the Judges with strong suspicion, and, coupled with the fact that the prisoner had got the prosecutor and some of the principal witnesses for the prosecution fined, they have

led

31st December 1829.

led the Judges to entertain great doubt of the veracity of these persons, so far as they implicate the prisoner as the person who struck the blow.

2. The Judges direct that the Acting Judge point out to the Acting Criminal Judge of Madura that if a prisoner is not apprehended when the evidence against him is taken it should be read over to him at the period when he is committed that he may know the evidence against which he must defend himself at his trial.

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

(Sent following letter No 471.

Mr Grant and Mr Cochrane

Read letter dated the 7th September last from the Third Judge late on Circuit in the Centre Division, transmitting the proceedings in case No 4 Chinglepet Calendar 1st Sessions of 1829.

(Hereunto No 599.)

The First and Second Puisne Judges having maturely considered the proceedings held before the Judge in Circuit, the Fiscal of the Provincial Court Officer and the Fiscal of the Court and Masters of the Pettah

31st December 1829.

Madras, confirm the said Fiscal of the Court and Masters aforesaid

Cayee and Coorgat and Moottoo

and acquitting the prisoners,

1st "Kistnama,"

2nd "Moneyan son of Ramoo Moodely,"

3rd "Moneyan son of Narain Moodely,"

4th "Veerasawmy,"

5th "Aryaman,"

and

7th "Nagoo,"

direct that they be set at liberty.

Sent following letter No 472

In issuing this final Sentence in this case, the Judges resolve to direct that the Third Judge do cancel the recognizance of the seventh person, Cundapoon, to be forfeited.

Ordered that extract of these proceedings be transmitted to the Third Judge of Circuit in the Centre Division by precept returnable within one week from and after its receipt.

(Sent following Precept No 473.

24th Do

24th Do

November 182

F.H.

43.

At a Court of the Foujdaree Udalut,

Present,

Monday 30th November 1829 } F.A. Grant Esquire, James Cochrane Esquire, William Oliver Esquire, } Judges.

Read letters dated respectively the 7th and 11th instant, from the First Judge of the Provincial Court of Circuit in the Northern Division, submitting the Calendars of persons committed for trial at the Fourth Quarterly Sessions of 1829 at Masulipatam.-

2H 30 H

Here enter No. 679 & 680 of

1. In the Column of remarks on Case No. 2. of the first Calendar, the First Judge states that the three prisoners who were tried stand "convicted of the crime laid to "their charge (Gang Robbery under aggravating "circumstances)" "and liable to 14 years im= "=prisonment and hard labor - but as the "more numerous part of the Gang have "escaped, and the prisoners not being well "identified, I have postponed passing sentence "until I obtain the sanction of the Judges "of the Foujdaree Udalut to mitigate their "punishment to seven years, which may "be considered sufficient as an example."-

2. The Court resolve to call for this trial; for if the prisoners are not well identified, that is a ground for their acquittal, and not for any mitigation of the prescribed punishment - Besides, if the charge is fully proved, the prisoners are