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No 10

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Thursday
1st July 1858.

J. U.

At a Court of the Foujdaree Udalut.

Present

G. S. Hooper Esqre.
J. L. Strange Esqre. } Puisne Judges.
C. R. Baynes Esqre.

Read Criminal Reports for the month of May 1858, submitted by the Sessions Judge of Madura.-

Here enter J. U. No. 1270 of 1858

1. With reference to cases Nos 76 to 89 inclusive the Court of Foujdaree Udalut have to observe that the acts, with which the prisoner is charged, should not have formed the subject of a criminal prosecution. - —

He could not be charged with "Fraud" as he had made use of no false pretences to obtain possession of the property, and there does not appear to have been a sufficient appropriation of the property, which he evidently intended to pet[illegible], to constitute the crime of "Theft" or "breach of trust."

2. The Court would also point out that

that the sentence was on the face of it illegal, in as much as it awarded corporal punishment, which is only authorised by the Regulation quoted in cases of "Theft" the prisoner will be at once released.

Read Calendar of Case No. 32 of 1858 on the file of the Session Court of Calicut

/ Here enter F. C. No. 1279 of 1858 /

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

Abderman

Five years.

Read letter from the Sessions Judge of Salem dated 25th June 1858.

/ Here enter F. C. No. 1269 of 1858 /

1. In this letter the Sessions Judge of Salem begs that certain questions may be submitted for the opinion of the law officer, and at the same time requests instructions as to the manner in which certain evidence is to be obtained having reference to the plea of the prisoner

prisoner Thomas Ralph Davis, at present undergoing the sentence of the Sessions Court at Salem, his plea being that he is not amenable to the jurisdiction of the said Court, he being a European British subject.

2. The Court of Foujdaree Udalut would point out to the Sessions Judge that the questions he suggests have no bearing whatever on the point in issue, who, or of what nation, petitioners mother was, being wholly immaterial, all that he has to prove, being that his father was a European British subject not amenable to the jurisdiction of the Mofussil criminal courts; that his father was legally married and that he petitioner is the issue of such marriage, as under such circumstances there can be no doubt that he is exempt.

3. As regards the difficulty to which the Sessions Judge refers of re-opening a case in which a final sentence has been passed, the Court would point out that any judgment passed by one who has no good commission to proceed against the person condemned, may at any time be set aside

on

on such special ground of exception being proved
and such judgment must at once be cancelled
and cease to be acted upon the moment it is
discovered to have been null and void ab initio.
The trial in no way comes
4 under the review of the Sessions Judge who
has now merely to ascertain whether the prisoner
was or was not subject to the jurisdiction
of the Court under whose sentence he is now
in confinement - and he is requested to lose
no time in disposing of the case.-

Read Miscellaneous Petition
received on the 1st June 1858, from the Session Judge
of Salem, on behalf of Ramen of that Zillah.-

/Here enter F. M.D. No. 86 of 1858/

This is an appeal from the Mr. J. L. Strange
1. sentence of the late Acting Session Judge of Salem
in Case No. 50 of 1857, adjudging the Petitioner to
find two securities of 50 Rupees each for his good
conduct for 2 years, on a charge of "House-
breaking with theft."-
2. The Court of Foujdaree Udalut
do not consider that the circumstances set
forth in the Session Judge's sentence justify
the

the requisition of security from the petitioner
(1st Prisoner) these being of a most inconclusive
nature. They therefore cancel the said requisition.-
Ordered that Extract from these
proceedings be sent to the Session Judge of
Salem by precept returnable within 3 days
from and after its receipt.-

Read Miscellaneous petition
presented on the 7th June 1858, by V. Sadagopa-
Charlo, Pleader on behalf of Chinniah Coun-
-den and 16 others, of Zillah Salem.-

/Here enter F. M.D. No. 87 of 1858/

This is an appeal from the
W. J. L. Strange / order of the late Acting Session Judge - under
date the 25th February last, confirming -
that of the Acting Joint Magistrate where-
-by the petitioners were fined on a charge of
"serious breach of the peace."-
The Court of Foujdaree Udalut
2. see no reason to interfere with the order in
question, and accordingly resolve to dismiss
this petition.-

Read Miscellaneous petition
presented on the 1st June 1858, by J. W.
Branson

Branson Esqre, Pleader on behalf of Moovoga Pillay, prisoner in Case No. 11 of 1858 on the file of the Session Court of Combaconum.-

/Here enter F. M. P. No. 79 of 1858/

Read also Miscellaneous petition presented on the 1th June 1858, by J. W. Branson Esqre, Pleader on behalf of Dawanaitum Pillay, prisoner in Case No. 10 of 1858 on the file of the above Session Court.-

/Here enter F. M. P. No. 80 of 1858/

Petitioners appeal against the sentences passed by the Session Judge, awarding against them respectively imprisonment for 4 years with hard labor in irons, on charges of Perjury.-

1.

2. The Court of Foujdaree Udalut seeing no reason to disturb the sentences passed upon the prisoners in the cases in question, resolve to reject the petitions.

Read letter dated the 17th ultimo from the Session Judge of Tinnevelly.-

/Here enter F. U. No. 1224 of 1858/

1. The Session Judge enquires whether Heads of Police may exercise the powers conferred by Act XXX of 1841, for the repression of Obstructions to justice; and, if not, how they can punish such

Mr. J. L. Strange.

such offences.-

2. The Foujdaree Udalut have repeatedly ruled that Subordinate officers of police cannot exercise the powers of the said Act. The proper course, in such cases, is for the Head of Police to send the offender, together with the witnesses, to the Magistracy, who can deal with the offence under Section XXXII, Regulation IX of 1816.-

Read Calendar of Case No. 24 of 1858 on the file of the Session Court of Coimbatore.

/Here enter F. U. No. 1280 of 1858./

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

† Vurdusspa Naicken — Eight years

Read Miscellaneous petition presented on the 7th June 1858, by V. Sadagopa Charloo, Pleader on behalf of Vadamalay Padiachy of Zillah Salem.-

/Here enter F. M. P. No. 88 of 1858./

This

1st July 1858.
Mr. J. L. Strange

1. This is an appeal from the sentence passed by the Session Judge of Salem in case No. 16 of 1858, wherein the Petitioner is 1st prisoner.-

2. The Court of Foujdaree Adalut see no ground to doubt the propriety of the sentence appealed against, and accordingly resolve to reject the petition.-

Read Miscellaneous petition presented on the 1st June 1858 by Mookteyar Vakeel on behalf of Mahalutchmummah of Zillah Nellore.

(Here enter F. M.D. No. 82 of 1858.)

Mr. J. L. Strange

1. This is an appeal from the sentence passed by the Session Judge of Nellore in case No. 9 of 1858 in which the petitioner was 2d prisoner.

2. The Court of Foujdaree Adalut seeing no reason to disturb the sentence in question, resolve to dismiss the petition.-

Read Miscellaneous petition presented on the 1st June 1858 by R. Teroomul row, Pleader on behalf of Chinnum Vencata Nursimmah of Zillah Masulipatam.-

(Here enter F. M.D. No. 83 of 1858.)

Mr. J. L. Strange

1. Petitioner appeals from the order

1st July 1858.

order of the Session Judge under date the 2d March 1858, confirmatory of the Acting Magistrate's decision whereby the petitioner's application for a sum of Rupees 2000 being recovered from V. Bhamiah, and entrusted to another person for the performance of the charity for which it was set apart, was dismissed as not being cognizable by the Magistracy under Act XIII of 1850.-

2. The Court of Foujdaree Adalut see no reason to question the propriety of the order appealed against, and accordingly resolve to reject the petition.-

Read Miscellaneous petition presented on the 15th June 1858, by Maneyam Coomarasamy Moodelly, of Zillah Chittoor.-

(Here enter F. M.D. No. 91 of 1858.)

Read also Miscellaneous petition presented on the 15th June 1858, by Viswanadha Chary, of Zillah Chittoor.-

(Here enter F. M.D. No. 92 of 1858.)

Read also Miscellaneous petition presented on the 15th June 1858, by Ponnuppa Moodelly of Zillah Chittoor.-

(Here enter F. M.D. No. 93 of 1858.)

Petitioners

1st July 1858.
Mr. J. L. Strange

1. Petitioners appeal against the order of the Session Judge under date the 23d March 1858, confirming the one passed by the Acting Head Assistant Magistrate on the 11th January 1858, sentencing the Petitioners to pay a fine of Rupees 7, and in default, to be imprisoned for 15 days, on a charge of having unlawfully cut down and appropriated to their own use a certain number of trees of the value of 40 Rupees, the property of Government, situated in various Government Topes near the Village of Satavambore, in the Talook of Cauvery-pauk and Zillah of Chittoor.

2. The Court of Foujdaree Udalut see no reason to question the correctness of the order appealed against, and accordingly resolve to reject the petitions.-

Read Miscellaneous petition presented on the 17th May 1858, by Mookhyar Vakeel on behalf of Achumnah and two others of Zillah Nellore.-

/Here enter F. M. P. No. 94 of 1858./

Mr. J. L. Strange

1. This is an application for reconsideration

1st July 1858.

reconsidration of the sentence passed by the Court upon the 4th 5th 6th and other prisoners in Case No. 43 of 1857 on the file of the Session Court of Nellore.-

The Court of Foujdaree Udalut seeing no reason to reconsider the sentence in question, resolve to reject the petitions.

Rs 8 0 C. S. Chamier

Read Miscellaneous Petition presented on the 4th June 1858, by V. Sadagopah Charlo, Pleader on behalf of Chinniah Javen Zillah Combaconum.

/Here enter F. M. P. No. 85 of 1858./

Mr. J. L. Strange

1. Petitioner appeals from the order of the Session Judge dated the 4th March 1858, confirmatory of the one passed by the Head Assistant Magistrate on the 29th January last, holding him, as well as others, to security for good behaviour for one year, under clause first, Section V. Regulation VII of 1827.-

2. The Court of Foujdaree Udalut resolve to direct the Session Judge to ascertain and inform the Court of the specific facts found against the 2d defendant, Chinniah Javen, which may have led to the requisition of security from him.-

Ordered

Ordered that Extract from these Proceedings be sent to the Session Judge of Combaconum by precept returnable within III days from and after its receipt.

1st July 1858.

L. R.D.

J. C.

Friday 2d July 1858 } At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read gain Miscellaneous Petition received on the 12th May 1858, from the Session Judge of Mangalore on behalf of Rambhut of that Zillah.

(Here enter J. M. P. No. 75 of 1858)

Read also Return dated the 25th ultimo, from the Session Judge of Mangalore, to the precept of the Foujdaree Adalut under date the 15th June last, calling for a portion of the evidence in case No. 4 of 1858 on the Calendar of the Session Court.

(Here enter J. C. No. 1281 of 1858)

The Foujdaree Adalut, on consideration of the evidence, are of opinion that it is suffecient to convict the 2d Pressoner, (Petitioner) of being present aiding and abetting in the outrage, which resulted in the firing of the Prosecutor's house; and accordingly decline to

2d July 1858.

to interfere with the sentence passed and reject the petition.

C. Chamier

Ex Exam.

F. C.

Saturday 3d July 1858.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges

Read letter dated 19th June 1858, from the Session Judge of Mangalore, submitting for the final judgment of the Foujdaree Adalut the record of Case No. 10 of 1858 on the Calendar of the Session Court.-

(Here enter F. C. No. 1255 of 1858.)

Messrs. Hooper Strange and Baynes-

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the Prisoners,

1st Kammar Ammoo
2d Billa Munjoo
and
3d Bantar Manjappa

are not convicted on presumptive proof

proof, or on the evidence of credible wit-
nesses, or on their own confession, of
the crime charged, do acquit them there-
of, and direct that they be set at
liberty.-

Read letter dated 30th
June 1858, from the Sessions Judge of
Chittoor, submitting for the final
judgment of the Faujdaree Adalut
the record of Case No. 36 of 1858 on the
Calendar of the Sessions Court.-

/Herewith F. No. 1284 of 1858./

The Court of Faujdaree Mr. Baynes.
Adalut, on a deliberate consideration
of all the circumstances of the case
in evidence before them, being of opini-
on that the proof against the prison-
er,

Coorapa Ajjeegadoo

is sufficient to convict him of the
crime of Culpable Homicide, for which
the penalty of Deyut is awardable
under the Mahomedan Law, as de-
clared in Futwas of their Law Officers,

do

3d July 1858.

do convict him thereof; and under the
provisions of Clause Second, Section XV,
Regulation VII of 1802, sentence him to
be imprisoned and kept to hard la-
bor in irons on the public roads or
other public works, for and during
the period of (5) five years.-

Ed Elt.

C S Chamier

F. C.

Monday 5th July 1858. } At a Court of the Faujdaree Adalut

Present

G. S. Hooper Esquire — Puisne Judges.
J. C. Strange Esquire —
C. R. Baynes Esquire —

Read letter from the Sessions Judge of Guntoor dated 28th June 1858.-

/Hereunto F. C. No. 1287 of 1858./

1. Under the explanation now afforded by the Sessions Judge of Guntoor as to the date on which the prisoner in No. 21 of his Criminal file effected his escape, the Court of Faujdaree Adalut resolve to cancel that portion of their proceedings of the 24th June directing the prisoner to be sentenced under Act V of 1858.-

2. With reference to para 2 of the Judge's letter, the Court have to observe that, owing to a mistake Act XIX of 1848 was quoted as the authority under which the Sessions Judge has to pass sentence

sentence, instead of as the authority
under which the Court overruled the
proceedings of the Sessions Judge with-
out first sending for the record.-

Ex Gall.

C.S. Chamier

F. C.

Tuesday 6th July 1858. } At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire
J. L. Strange Esquire } Puisne Judges
C. R. Baynes Esquire

Read Calendar of Case
No. 62 of 1858 on the file of the Sessions
Court of Bellary.-

(Herewith F. C. No. 1299 of 1858.)

As herein recommended,
the Court of Foujdaree Adalut resolve
to authorize the Sessions Judge to issue
his warrant for the imprisonment
of the prisoner for the period speci-
fied in the margin, in mitigation of
the sentence passed upon him in the
said case.-

Boya Konoo-mah ..... Seven years.

Read Calendar of Case No. 8
of 1858, submitted by the Sessions Judge of
Chicacole.-

(Herewith F. C. No. 1275 of 1858.)

The Court of Foujdaree
Adalut

6th July 1858.-

Udalut request the Sessions Judge to explain on what grounds he states the 1st Prisoner to have committed an extensive robbery in Bimilipatam subsequent to the theft for which he has been tried and sentenced in the present case. If so, he should be tried for the graver offence.-

2. The Court are of opinion that in the case of the 2nd and 3rd Prisoners, female relatives of the 1st Prisoner, who must be supposed to have acted under his control and whose real crime consists in not denouncing him when he brought home the stolen property, would be adequately punished by imprisonment for 6 months; and they direct the reduction of the stripes ordered to be inflicted on the 1st Prisoner to 100 lashes.-

3. The Sessions Judge will be pleased to issue his warrant accordingly.-

Ordered that Extract from these Proceedings be sent to the Sessions Judge

6th July 1858.-

of Chicacole by precpt returnable within 7 days from and after its receipt.-

Read Calendar of Case No. 19 of 1858 on the file of the Session Court of Trichinopoly.-

/Here enter F. Ho. No. 1288 of 1858./

The Prisoners 1 to 4 were charged with Robbery by open violence in the prosecution of which they beat and otherwise maltreated the prosecutor and the members of his family, and the Prosecutor is stated to have deposed to these circumstances; the Sessions Judge, however, in convicting these prisoners, recommends that as no "violence was used" their punishment be mitigated to 7 years' imprisonment. The Foujdaree Udalut presume that he means no extreme violence; but the robbery was evidently a daring one, and attended with at least such a degree of it, that they do not feel warranted in reducing the sentence below 10 years, to which the Prisoners 1 to 4 will therefore be sentenced.-

Read

Read letter dated the 26th June 1858, from the Acting Agent at Kurnool, submitting, in conformity to the Agency rules, for the final decision of the Court of Foujdaree Udalut, a summary of the evidence taken in Case No. 314 of 1858, with his opinion as to the punishment to be passed.-

/Here enter F. Mo. No. 1292 of 1858./

The Court of Foujdaree Udalut concur with the late Acting Agent in the conviction of the Prisoner, and in the proposed sentence of 12 months' imprisonment.-

Read again Miscellaneous Petition presented on the 17th May 1858, by J. W. Branson Esquire, Pleader on behalf of Broomal Chetty, of Zillah Coimbatore.-

/Here enter F. Mo. P. No. 76 of 1858./

Read also Return to the Precept of the Foujdaree Udalut of the 15th June 1858, directing the submission of the record in Case No. 72 of 1857 on the file of the

the Sessions Court, and the suspension of the sentence passed on the 3d Prisoner, pending their final orders.-

/Here enter F. Mo. No. 1263 of 1858./

Mr. Baynes.-/

The Court of Foujdaree Udalut, upon consideration of the petition and Record, and after hearing the arguments of 3d Prisoner's Counsel, are of opinion that the evidence is insufficient to convict the Prisoners of the crime with which they are charged.-

2. The 3d Prisoner having commenced an action against the Prosecutor in the Moonsiffs Court, subsequently wrote a letter to his Vakeel saying, that his debtor Poocheegounden, who would accompany 2d Prisoner with the said letter, had consented to razee the suit, and that a razeenamah should be prepared and executed. All was done accordingly, save that Poocheegounden did not go to the Court but 1st Prisoner appeared as his representative. These facts are not denied; but

while

while the Prosecutor asserts that after action brought he paid the debt and never consented to a razzernamah, or authorized 1st Prisoner to appear as for him, the Prisoners and their witnesses declare that he, Prosecutor, did agree to go with 2d Prisoner and the latter to the Vakeel, and actually started for that purpose; when it was agreed between them that Poocha-=gounden should be spared the trouble and be represented by the 1st Prisoner.

In the first case the guilt imputed would attach to the prisoners; in the second it would not, as there would be an absence of all fraud. The actual truth cannot of course be discovered, but the balance of probability appears to be greatly on the side of the Prisoners, and entitle them to an acquittal upon the doubt. The case for the prosecution quoad proof of fraud, rests chiefly on the evidence of the prosecutor, a party interested in establishing it. By his own

own account 3d Prisoner had brought against him a well founded action, and knowing such to be pending he says he paid the amount without providing for its withdrawal, or taking any receipt; not only is his story thus improbable, but his several accounts of the transaction are also discrepant. Before the Moonsiff he says the action was for 8 Rupees; that he admitted 4 and paid 2; before the Session Court that he paid 5 Rupees in full. On the part of the prisoners there is evidence, which the Court see no reason to doubt, that Pro-=secutor and 3d Prisoner had conversa-=tion relative to the pending action; that it was agreed between them to execute the razzernamah, and subsequently between Prosecutor and 1st Prisoner that the one should personate the other.-

3 Under these circumstances the Court are of opinion that, to say the least, much doubt exists, of which the

the prisoners are entitled to the benefit. It appears very possible that the 3d Pri= soner may be wholly innocent, and the 1st & 2d be guilty only of an irregu= lar and improper practice in which the Prosecutor was as much concerned, & as much to blame, as themselves; and they therefore resolve to annul the sentence passed, and direct that all three Prisoners be forthwith relea= sed.-

Ordered that Extract from these Proceedings be sent to the Sessions Judge of Coimbatore, by precept returnable within III days from and after its receipt.-

Circular

The Court of Foujdaree Udalut resolve to point out for the guidance of judicial officers that it is provided, in Act XXII of 1854, that cer= tain offences, therein specified, shall be taken cognizance of by the Magistra= cy only. The Court accordingly direct that in future such cases shall not be

be committed for trial to the Criminal Courts, but shall be dealt with by the Magistracy, as directed in the Act above quoted.-

Ed Elliot.

C S Cameron

F. M.

Wednesday 7th July 1858 } At a Court of the Tanjadarea Adalut.

Present

G. S. Hooper Esquire
J. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read Calendar of Case No. 57 of 1858 on the file of the Sessions Court of Madura.-

/Here enter F. M. No. 1304 of 1858./

As herein recommended, the Court of Tanjadarea Adalut resolve to authorize the Sessions Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.-

C. Chamier

Exd Ellt.

× Pitchay Goorookul ..... Six months

F. Co.

Thursday 8th July 1858. } At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire
T. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read letter from the Sessions Judge of Chittoor, submitting letter from the Magistrate of the District.

/Here enter F. Co. No. 1285 of 1858./

1. The questions now submitted by the Sessions Judge of Chittoor, at the request of the Magistrate, are, whether an Assistant Magistrate who has not passed the highest standard of examination is competent to take cognizance of cases under Sections LIV and LVII of act XVII of 1854, and Secondly, whether the Magistrate may pass sentence under this regulation on a consideration of examinations held by his assistant.-

2. The Court of Foujdaree Adalut

Sudalut are of opinion that an Assist=
=ant Magistrate who has not passed
the higher standard of examinations
is precluded by orders of Government
from being vested with the full pow=
=ers of a magistrate, and is consequent=
=ly incompetent to dispose of cases
under the Sections of the act above
quoted.-

3. The Court are further
of opinion that under this act the
officer who conducts the proceedings
and examinations, is alone compe=
=tent to pass sentence.-

Read letter from the
Sessions Judge of Bellary dated June
24th 1858, submitting letter from Magistrate
of the District.-

/Here enter F. No. No. 1278 of 1858./

1. The question now sub=
=mitted by the Sessions Judge of Bellary
for the opinion of this Court, is whether
a party entering into a contract in
good faith, and receiving an advance
and

and afterwards absconding without ful=
=filling the contract is liable to a crimi=
=nal prosecution.-

2. The Court of Foujdaree Sudal=
=ut are of opinion that under such cir=
=cumstances there would be no grounds
wherron a criminal prosecution could
be founded.-

Read letter dated the
26th June 1858 from the Acting Agent
at Kurnool, submitting in conform=
=ity to the agency rules for the final
decision of the Court of Foujdaree Sudal=
=ut, a summary of the evidence
taken in Cases Nos. 31, 32, and 33 of 1858
with his opinion as to the punish=
=ment to be passed.-

/Here enter F. No. No. 1305 of 1858./

The Court of Foujdaree
1. Sudalut observe that there is no evi=
=dence wherron the 2d Prisoner can
be convicted in Nos. 32 and 33. and
accordingly acquit him in those
cases.-

They

8th July 1858.

2. They however concur in convicting all the prisoners in Case Nos 31, and the 1st, 3rd and 4th in Nos 32 and 33, and agree in passing upon all the prisoners the sentence proposed by the late Acting Agent; namely two years imprisonment each with hard labor in irons.-

Ex 18.

S Chamier

F. No.

Friday 9th July 1858.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire,
J. So. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges

Read letter from the Session Judge of Masulipatam, &c
dated 29th June 1858.

(Here enter F. No. Nos 1296 of 1858.)

1. With reference to the proceedings of the Foujdaree Adalut dated 21st June 1858, the Session Judge of Masulipatam requests to be informed whether in cases of Breach of the revenue laws the rule laid down in Circular Order of the 31st August 1833, B, as to the imposition of irons, is to be held applicable.-

2. The Foujdaree Adalut are of opinion that the Circular Order quoted by the Session Judge does not apply to cases of conviction of breach of the revenue laws.-

Read

F.M.C.

Saturday 10th July 1858. At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esquire,
T. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read Extract from the Minutes of Consultation dated 7th ult. July 1858.-

/Here enter F.M.C. No. 1330 of 1858./

With reference to Extract from the Minutes of Consultation dated 7th July, the Court request the Session Judge of Chittoor to forward the A report of a case disposed of by the Joint Magistrate, in which the party was charged with having placed a chair upon the rails near the Goriatham railway station.

Ordered, that Extract from these proceedings, be sent to the Session Judge of Chittoor, by precept returnable within V days from and after its receipt.

Read

9th July 1858.

Read letter, dated 29th ultimo, from the Acting Agent at Kurnool, submitting in conformity to the Agency rules for the final decision of the Court of Foujdaree Adalut, a summary of the evidence taken in Case No. 35 of 1858, with his opinion as to the punishment to be passed.

/Here enter F.M.C. No. 1310 of 1858./

The Court of Foujdaree Adalut concur in the conviction of the 1st, 2d, and 4th Prisoners, and in the sentences proposed by the Acting Agent to be passed upon them respectively. They also agree with the Acting Agent in demanding security from the 3d Prisoner.

Ex Endg. C. S. Chamier

Read Calendar in Case
No. 53 of 1858, on the file of the Session
Court of Madura.

/Here enter F. M. No. 1315 of 1858/

With reference to the con-
duct of the police in the investiga-
tion of this case and to which the
attention of the Court has been
directed by the Session Judge, the
Session Judge is requested to send
copy of the remarks contained in
his sentence to the Magistrate with
instructions to require a full expe-
planation on the subject from the
Police Ameen.

Ordered, that Extract
from these proceedings be sent to
the Acting Session Judge of Ma-
dura, by precept returnable with-
in X days from and after its re-
ceipt.

Read again Miscellaneous
Petition presented on the 4th. May last,
by J. D. Mayne Esquire, and V. Sada-
sopacharry, Pleaders on behalf of
Appatoray

Appatoray Iyen, Prisoner in case No. 16
of 1858, on the Calendar of the Session
Court of Combaconum.

/Here enter F. M. P. No. 66 of 1858/

Read also returns, supple-
mental and final returns dated 20th.
May, 2d. and 1st. ultimo, from the Session
Judge of Combaconum, to the precept
of the Foujdaree Adalut under date
the 6th. May 1858, directing the Session
Judge to forward a translation of
the record of Case No. 16 of 1858 and to
suspend the sentence of Labor in irons
passed upon the Prisoner in the case.

/Here enter F. M. Nos. 1009. 1104 and 1105 of 1858./

Read also further return
dated 23d. ultimo, from the same officer,
to the precept of the Foujdaree Adalut
under date the 6th. May 1858.

/Here enter F. M. No. 1258 of 1858./

Read also letter dated
30th. ultimo, from the same Officer,
forwarding the original of Exhibit
No. 18 in connection with the above case.

/Here enter F. M. No. 1289 of 1858/

The

10th. July 1858.

Messrs. Hooper and Baynes

1. The Court of Foujdaree Adalut, on a careful consideration of the whole of the record of this case, are not satisfied of the guilt of the prisoner, not a tittle of evidence having been adduced to shew that he ever applied to examine, or had any access whatever, to the documents in question, after they were filed in the Court by the Prosecutor, 2d. Defendant in the suit, and that an opportunity was thereby afforded him of making the alterations and interpolations therein, upon which the charge of Forgery is based.

2. The Court observe that the only proof that the documents were so tampered with by the Prisoner consists in the assertions of the said Prosecutor himself and 1st., 2d. and 3d. witnesses, the 2d. of whom is his son, that certain copies of the originals made before the latter were filed, do not contain the said alterations and interpolations, and in the inference

F. 116.
10th. July 1858.

inference drawn from the alleged fact that these alterations &c. are of a nature to prejudice the Prosecutor's defence in the Civil suit; but no reliance can be placed on the statements of the said witnesses as to the exact contents of the said Original Documents.

3. The Prisoner, it is true, admits writing these letters; that they were as he wrote them, and that he has never seen them since. The Prosecutor, on the other hand, says "that "alterations and additions have been "made in the said letters since he "put them on the record;" for proof of which he rests on certain copies said to have been taken by him before filing them, in which the alleged interpolated passages do not appear, and also on the presumption, that if they had been as they now appear he would not have produced them. The evidence afforded by such copies is in the opinion of the Foujdaree Adalut

Udalut in conclusive, inasmuch as they are not satisfactorily proved to be true copies or to be the very copies actually then taken, while the presumption that Prosecutor would not have produced them though strong is not conclusive; for he may have desired to do so for the sake of their other contents, and have had recourse to a scheme for discreditting those passages which made against him. But however this may be, if the prisoner, bring charged with having, between such and such dates, committed certain forgeries on papers in the custody of a public Officer, cannot be shown by evidence of any Kind whatever to have had access to such papers, the Court do not see how, however grave and strong the suspicion may be against him, he can be properly and legally convicted of the act.-

4. They resolve therefore to acquit the Prisoner and direct his unconditional

10th. July 1858.

unconditional release.

Ordered that Exctract from these proceedings, be sent to the Session Judge of Combaconum, by precpt returnable within III days from and after its receipt.

Read letter dated 5th. June 1858, from the Acting Session Judge of Cuddalore, submitting for the final judgment of the Tanjore Udalut, the record of Case No. 41 of 1858 on the Calendar of the Session Court.

/Here enter F. Rec. No. 1130 of 1858./

Mr. Hooper.

The Court of Tanjore Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners,

1st. Sunjeeva Royen

and

2d. Seenivasa Pillay

is sufficient to convict them of the crime of defrauding the customs, do

convict

10th July 1858

convict them thereof, and sentence them to be imprisoned for one year without labor or irons, and to pay a fine of 100 Rupees each, or in default to be imprisoned for a further period of (6) six months.

Exd Dall.

C S Chamier

F. 46

Monday. 12th July 1858 — At a court of the Foujdaree Udalut

Present

G. S. Hooper Esq^re
T. L. Strange Esq^re
C. R. Baynes Esq^re
} Puisne Judges

Read Calendar of Case No. 25 of 1858 on the file of the Sessions Court of Coimbatore.-

/Here enter F.46. No. 1344 of 1858./

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.-

x Vattay — Ten years.

Read Letter from the Sessions Judge Chittoor, dated July 5th, 1858.-

/Here enter F.46. No. 1320 of 1858/

1. With reference to No. 380 of 1858 on the file of his Court, the Sessions Judge of Chittoor requests the opinion of the Judges as to the disposal and trial of cases of "attempt at Arson"

2 The Judges observe that it is essential to the constitution of the crime of "Arson" that there has

has been an actual setting on fire.— An Attempt to set fire to a building is merely a misdemeanour, and as such can be disposed of by the Police.—

Read Letter from the Acting Agent to the Governor in Ganjam under date 30th June 1858.—

/ Here enter F. No. No. 1328 of 1858 /

1 In this Letter the Acting Agent reports the numbers of persons under trial before the Assistant Agent Captain Smith, and who have been in custody for periods varying from six to twenty months.—

2 The Court direct the Acting Agent to call for an explanation from Captain Smith on the subject now brought to their notice, which will be submitted to the Court with as little delay as possible.—

Ordered that Extract from these proceedings be forwarded to the Acting Agent to the Governor in Ganjam, by precept returnable in VIII days from and after its receipt.—

/ Sent following precept No. /

Read Miscellaneous Petition presented on the 15th June 1858, by A Sorabjee, Pleader on behalf of Coombalingum Moodaliar, of Zillah Combaconum.—

/ Here enter F. M. P. No. 90 of 1858 /

This

Mr. Strange.

1. This is an appeal from the order of the Session Judge dated the 16th March 1858 confirmatory of the sentence of the Joint Magistrate whereby Petitioner was held to security on a charge of having assembled a number of men for the purpose of forcibly reaping and carrying off the produce of certain lands.—

2. The Court of Foujdaree Udalut resolve to direct the Session Judge to communicate to the Court the defence made by the petitioner and such facts as may have served to show that the persons assembled together by the petitioner were brought together for an unlawful purpose.—

Ordered that Extract from these proceedings be forwarded to the Session Judge of Combaconum by precept returnable in X days from and after its receipt.—

Read letter dated 1st July 1858, from the Session Judge of Tellicherry, submitting for the final judgment of the Foujdaree Udalut the record of Case No. 8 on the Calendar of the Session Court.—

/ Here enter F. No. No. 1332 of 1858 /

Mr. Strange

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the

case

case in evidence before them, being of opinion that the 12th July 1858
proof against the prisoner,

1st Onakally parambatta Kunnishan Ramar

is sufficient to convict him of the crime of Robbery attended with Murder, do convict him thereof, and in conformity with the provisions of clauses first and fifth, Section IV, Regulation XV of 1803, and Section XXXIV, Act VII of 1843, 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 (10) ten years.—S

Ex^d Ed^d.

C. S. Clavier

F. 46.

Tuesday
13th July 1858 } At a Court of the Foujdaree Udalut.

Present

G. S. Hooper Esquire
J. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read letter dated the 7th June 1858, from the Sessions Judge of Chittoor, referring for the final judgment of the Foujdaree Udalut, the record of Case No. 34 of 1858 of the Calendar of the Sessions Court.—

(Here enter F. 46. No. 1286 of 1858)

Mess^rs Hooper and Baynes.

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

1st C. Soobbadoo.

is sufficient to convict him of the crime of Murder, do convict him thereof; and under the

X

13th July 1858.

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

Read letter from the Sessions Judge of Salem, dated July 5th, 1858.

(Here Enter F. No. No. 1325 of 1858)

With reference to the subject of this letter, the Court have to remark, that if the Sessions Judge should consider such testimony to be sufficient, it might be suggested to the Prisoner Davis that he request Mr. Caultrop to make affidavit before some Magistrate or other qualified person of the truth of the facts relating to his birth of which the prisoner states Mr. Caultrop is cognizant, and exhibit the same in Court. Should the prisoner's plea of exemption from the jurisdiction be established to the satisfaction of the Sessions Judge, it will become his duty to apply for the permission of this Court to set aside a sentence which has been erroneously passed.-

Read

13th July 1858.

Read letter from Sessions Judge of Combaconum, with reference to prisoners under sentence in No. 44 of 1858 on the file of Moosfy Sudder Ameen.

(Here Enter F. No. No. 1346 of 1858)

Under the circumstances mentioned in the Judge's letter, the Court resolve to sanction the reduction of the sentence as recommended.-

E. Hall.

C. Chamier

F. Uc.

Wednesday 14th July 1858

At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre. ——
T. L. Strange Esqre. —— } Prisne Judges
C. R. Baynes Esqre. ——

Read the Criminal Reports submitted by the Session Judge of Combaconum for the year 1857.-

/Here enter F. Uc. No. 522 of 1858/

The Court of Foujdaree Udalut —

Comparative abstract shewing petty offences, crimes & misdemeanors.

direct that the Session Judge will be pleased to append to this abstract a review shewing the state of crime and causes which have influenced it as — required in para 5 of this Courts letter under date the 1st April 1853.-

2 The Session Judge will also report as required under Circular Proceedings dated 18th February 1845, the manner in which the Moofty Sudder Ameen has exercised the Criminal Jurisdiction during the year 1857.-

3 The Session Judge will also report on the working of their Circular Order No. 208 respecting the receiving of confessions by Heads of Police as — required by this Courts Circular letter dated 30th — October

October 1857.-

Ordered that Extract from these pro-
=ceedings be forwarded to the Session Judge of Comba-
=conum, by precept returnable in X days from and after
its receipt.-

Read letter from Sessions Judge of
Chittoor, dated 2d. July 1858, requesting the opinion
of the Court as to whether an Assistant Magistate,
after having been a year in the premises, can exercise
the powers conferred by Clause 1st. Section III. Regulation
II of 1822, and Clause 1st. Section VI Regulation VI of 1827,
prior to having passed the 1st. Standard Examination.-

/Here enter F.H. No. 1293 of 1858/

The Court are of opinion that the rules of
Government restricting the powers of Assistant Magistrates,
who have not passed the highest standard of Examina-
tion, and to which the Sessions Judge would appear to
refer, do not preclude Assistant Magistrates from exer-
-cising the powers conferred by the Sections of the
Regulations quoted.-

Read Calendar of Case No. 33 of 1858
on the file of the Session Court of Calicut.-

/Here enter F.H. No. 1351 of 1858/

As herein recommended, the Courts of
Tanjore

14th July 1858.

× 5 Kanaka Cheroman Koran's son Vellan.
6 Erala Cheroman Kolan's son Kandan.
7 Kongala Cheroman Kolaven's son Bambaw.
and
8 Kannen's son Iyapen
Seven years.

Tanjore Udalut resolve to authorize the Session
Judge to issue his warrant for the imprisonment
of the prisoners for the period specified in the margin,
in mitigation of the sentence passed upon them in
the said case.-

Read Calendar in Case No. 62 of
1858 of the Session Court of Madura.-

(Here enter F.H. No. 1356 of 1858)

On view of the account given of
the prisoner's evidence in Calendar No. 53, the Court
of Tanjore Udalut see no ground for mitigating
the sentence of the law which he has incurred. It
would seem plain by the Acting Session Judge's
remarks in the said Calendar that the prisoner
deliberately endeavoured, by false declaration of
having identified the accused, to procure their con-
viction of the heinous crime of Robbery by open
violence.-

Read Calendar of Case No. 15 of
1858 on the file of the Session Court of Honore.-

/Here enter F.H. No. 1353 of 1858/

As herein recommended, the Court
of Tanjore Udalut resolve to authorize the
Session Judge to issue his warrant for the
imprisonment

imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.-

14th July 1858
× 1 Malla
2 Somah
Eight years.

Read Extract from the Proceedings of the Sessions Court of Tinnevelly under date the 2d instant, revising the Petty Calendars of the Magistracy for the 1st Quarter of 1858.-

/Here enter F. No. No. 1318 of 1858./

Adverting to the proceedings held on these petty Calendars under date 22d April last, the Court of Foujdaree Udalut, while noting the very proper care with which they appear to have been revised, would observe that in many of the cases noticed the errors and delays pointed out were so trivial and unimportant, that it was not necessary to call for explanations, and so occupy the time of the Magisterial officers.-

2. The Court would also point out that in Calendar No. IV, Case No. 5 of 1857, the charge was erroneously drawn up. If it was intended to charge Yellapah Naick with "murder", it should have stated "that he on the 15th November 1857 murdered some person unknown", and the circumstances recited in the present charge would have come in evidence

F. No.
14th July 1858

evidence of that allegation.-

3. They observe also that a Magistrate is not competent to require security for appearance from a party brought before him on a specific charge;- he must either remand for further evidence, release for want of it, or commit.- The Criminal Judge, if he consider the evidence insufficient for conviction, or committed to the Session Court, has the power of requiring securities for appearance.-

Ed Chamier

Ed Chamier

F. M.

Thursday 15th July 1858. } At a Court of the Fouzdaree Udalut

Present

G. S. Hooper Esquire
T. L. Strange Esquire
C. Ra. Baynes Esquire } Puisne Judges

Read Miscellaneous Petition received on the 22d Ultimo, from the Sessions Judge of Mangalore, on behalf of Sunnuppa and Channe, the 1st and 4th prisoners in Case No 9 of 1858, on the file of the Session Court of that Zillah.-

/Here enter F. M. P. No 96 of 1858./

Read also Miscellaneous Petition received on the same day from the same Session Judge, on behalf of Pani Sastri alias Putta Sastri, and Ishwara Butten alias Ichchanna, the 2d and 3d prisoners in the above case.-

/Here enter F. M. P. No 97 of 1858./

Messrs Strange and Baynes- This is an appeal from the sentence passed by the Session Judge upon the Petitioners for 14 years imprisonment.

=sonment with hard labor in irons on a
charge of "Highway Robbery".-

2. The Court of Foujdaree Adaw-
lut see nothing which would induce
them to impugn the propriety of the
sentence appealed against, and ac-
=cordingly resolve to dismiss the Petitions.-

Read Calendar in Case
No. 21 of 1858 of the Session Court of Triche-
=nopoly.-

/Here enter F. C. No. 1323 of 1858./

1. The Court of Foujdaree
Adalut point out to the Session Judge
that the 1st Prisoner being declared li-
=able to Hud, should have been sen-
=tenced by commutation under Section
XXI Regulation VII of 1802.-

2. In the case of the 2nd pri-
=soner the Law officer should have been
asked to what specific punishment
the prisoner would have been liable
had he been fully convicted and not
on zun-i-ghalib, and on Hud being
declared, the same sentence should
have

have been passed, application for mitigation
thereof being made, if thought necessary.-

3. Supposing this course to have
been taken the Foujdaree Adalut sanction
the mitigation of the 2nd prisoner's sen-
=tence to 3 years' imprisonment with
hard labor in irons.-

Read letter from the Agent
to the Governor in Ganjam dated July 2nd
1858.-

/Here enter F. C. No. 1354 of 1858./

1 In the case referred to by
the Agent in this letter, two prisoners
were charged with the "abduction" of a
girl of six years old without the con-
=sent of her father; the second prisoner
with having then married her with-
=out the father's consent; the Agent has
convicted the prisoners and proposes
sentencing them under Section VIII, Regu-
=lation X of 1816, or Clause 7, Section II Regu-
=lation XV of 1803; but before doing so requests
the opinion of the Court as to whe-
=ther the offence charged is punishable
under

under the latter regulation by fine.-

2. The Court observe that the sentence of fine proposed to be passed by the Agent could be imposed under Clause 7, Section II Regulation XV of 1803; but as the offence charged against the prisoner amounts to no more than a misdemeanor, the Agent is competent to dispose of the case and pass sentence under Section XII Regulation X of 1816, without the interposition of this Court.-

Read Calendar in Case No. 14 of 1858 of the Session Judge of Rajahmundry.-

/Here enter F. M. No. 1311 of 1858./

1. The Court of Tanjore Adalut observe that the Session Judge should have ascertained by a 2nd Question, why "Hud" was barred and to what specific punishment the Prisoners would have been liable had they been fully convicted instead of on zunnee ghalib, and on Hud being declared the prisoners should then have been sentenced to 7 years' imprisonment

imprisonment under Section XXI Regulation XII of 1802, a mitigation thereof being recommended if deemed proper.-

2. It is not the practice of the Courts to pass sentence for House-breaking, or Theft, under Clause 7, Section II Regulation XV of 1803; the Foujdaree Adalut however do not desire to interfere with the sentence in this case which is substantially correct, but only notice the point for the Sessions Judge's future guidance.-

Read Calendar in Case No. 12 of 1858 of the Sessions Court of Tellicherry.-

/Here enter F. M. No. 1301 of 1858./

The Court of Tanjore Adalut observe that a further question should have been put to ascertain why "Hud" was not declared, and what would have been the punishment but for such bar; and the Prisoner should then have been sentenced to 7 years' imprisonment, under Section XXI Regulation VII of

of 1802, mitigation being applied for if deemed proper.- According to the practice of the Courts, sentences for House-breaking and Theft, are never passed under Clause 7th, Section II, Regulation XV. of 1803. The Foujdaree Udalut, however, do not desire to interfere with the sentence in this case, which is substantially correct; but they only notice the point of practice for the Sessions Judge's future guidance.-

Read letter dated 5th July 1858, from the Sessions Judge of Mangalore, submitting for the final judgment of the Foujdaree Udalut, the record of Case No. 18 of 1858, on the Calendar of the Sessions Court.-

/Here enter F. G. No. 1348 of 1858./

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

is

Mr. G. S. Cooper.

is sufficient to convict him of the crime of Forgery, do convict him thereof; and under the provisions of Clause third, Section III, Regulation VI of 1811, and Section XXXV, act VII of 1843, 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 () one year.-

C. Chevers

E. Ball.

F. Ub.

Friday 16th July 1858. At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre. — Puisne Judge
T. L. Strange Esqre.
C. R. Baynes Esqre.

Read letter from Sessions Judge of Chittoor dated 10th June 1858, relative to certain property claimed by prisoners in No. 30 of 1856 on file of Sessions Court.—

/ Here enter F. Ub. No. 1153 of 1858 /

The Court, on a reference to the record in this case, find that the prisoners in part disclaimed during their trial the ownership of the property produced as stolen, and said to have been found in their possession; but this fact can in no way affect the prosecutor's title to the property and which also it was determined he had failed to establish. It is plain therefore that the prosecutor should be called on to account for the said property erroneously delivered to him, and the Court are of opinion that it should be restored to those from whom it was taken, notwithstanding their having disclaimed the ownership during the trial.—

C. S. Clarke

Ed. Hall

Saturday
7th July 1858

F. Ed.

At a Court of the Foujdaree Adalut

Present

G. S. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judge

Read Calendar in Case No. 40 of 1858 of the Session Court of Chittoor.

/Here Enter Fd R^o. 1360 of 1858/

The Court of Foujdaree Adalut observe that as the 2^d Prisoner who, alone is convicted in this Case, has been convicted and Sentenced to 14 years imprisonment in No. 39- the reference of the record of the trial No. 40 is not necessary-s

Dis 18^d

C S Chamier

F. Uc.

Monday 19th July 1858.

At a Court of the Fouzdaree Udalut

Present

G. T. Hooper Esqr 1st
T. L. Strange Esqr 2nd — Puisne Judges
C. R. Baynes Esqr 3rd

Read miscellaneous Petition presented on the 1st July 1858 by Soucar Moonsyapen of Zillah Chittoor.

/Here enter F. Mc. N. No 98 of 1858./

W C. R. Baynes. 1 This is a Petition for a review of this Court's order under date the 15th June 1858.

2 The Fouzdaree Udalut must refer Petitioner to their order of the 15th June on his Petition No 65 of 1858, in which their reasons for rejecting his request are detailed. They point out to him also that it is only their conviction of his ignorance which prevents their taking serious notice of the highly improper style of this petition.

Read Calendar of Case No 26 of 1858 on the file of the Sessions Court of Nellore.

/Here enter F. Uc. No 1364 of 1858./

19th July 1858.

As herein recommended, the Court of Fouzdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the Sentence passed upon them in the said Case.

1. Venna Adivigadu
2. Dº Markapuriyadu
3. Muri Basweyadu.
4. Kotapati

Ten Years.

Read Extract from the Minutes of Consultation dated 9th July 1858.

/Here enter F. No. Nº 1357 of 1858/

Under the sanction of Government conveyed in Extract from Minutes of consultation dated 9th July 1858, the Court of Fouzdaree Udalut authorize the Session Judges, in Cases where counsel is retained for the prisoner, to engage on behalf of the prosecution whichever of the Vakeels of the Court may be considered the most able to conduct such prosecution. Such Vakeel to be remunerated by a fee of from ten to thirty Rupees according to the circumstances of the Case.

Circular

Rd 18d.

C. A. Chamier

F. No.

Tuesday 20th July 1858.

At a Court of the Fouzdaree Udalut.

Present

G. S. Hooper Esqre
J. L. Strange Esqre
} Puisne Judges.
C. R. Baynes Esqre

Read Calendar of Case Nº 10 of 1858 on the file of the Session Court of Chicacole.

/Here enter F. No. Nº 1365 of 1858/

1. The prisoner in this Case is charged with and convicted of simple theft but being a most notorious thief and bad character, and one of a gang of well known depredators and thieves, who are the dread of the inhabitants of that Zillah, the Session Judge sentences him to 7 years imprisonment and hard labor in irons, with 195 lashes, and recommends his banishment to the Zillah Jail of Chingleput, there to undergo his sentence.

2. The Court of Fouzdaree Udalut direct the prisoner to be sent to the Jail at Chingleput, to undergo his sentence as recommended by the Session Judge.

Copy sent to the Sessions Judge of Chicacole and Chingleput

Rd 18d.

C. A. Chamier

F. Uc.

Wednesday 21st July 1858. } At a Court of the Tanjadaree Udalut.

Present.

G. S. Cooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read the Criminal Statements Nos 10 and 13 of the Bengal forms submitted by the Sessions Judge of Cuddapah for the year 1857.

(Here enter F. Uc. No 1117 of 1858.)

Statement No 13 Bengal form 1

The Court of Tanjadaree Udalut observe that the number of persons entered in Columns 2. 25, 28 and 29 under head "Grand Total" should be 6240, 1695, 1024 and 58, according to the Statements Nos 1, 2, 3A, 3B & 4.-

Statement No 10 Col 2

The number of persons entered in Columns 6 and 7 under head Magistrates &c, should be 19.

3

The aggregate number of persons in Columns 6 and 7 and the entry in Column 8 under head "Total" of the Statement No 10 Page 178 & 22 do not tally with the number in Column 4 and 5 head

21st July 1858.

head "Grand Total" of the Statement No 13
(176 and 20)

Precept returnable in 3 days.

E.T.D.

C. Chamier

J.U.

Thursday 22d July 1858.

At a Court of Foujdarry Adalut.

Present.

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Dayrell Esquire
} Puisne Judges.

Read Criminal Report for the month of June 1858 from the Sessions Judge of Nellore.

(Here enter F.D. No. 1363 of 1858)

No 114. The Court would point out that this was not a case in which security should have been required.

Read Criminal Reports for the month of June 1858 from the Sessions Judge of Masulipatam.

(Here enter F.D. No. 1399 of 1858)

No 39. The Court would point out to the Sessions Judge that the "attempt to commit arson" (that is when fire is not actually raised) amounts only to a misdemeanor, also that it is essential to constitute the offence of Arson, that the building be fired with intent to injure some other party.

Read letter from the Sessions Judge of Madura dated 12th July 1858.

(Here enter F.D. No. 1374 of 1858)

With

22d July 1858.

1 With this letter the sessions judge forwards the A report of a case disposed of by the joint magistrate, in which parties, being charged with having without permission cut and taken away jungle trees the property of Government, were convicted of "Theft", and sentenced to imprisonment with hard labor, and the judge having doubts as to whether the offence amounts to "Theft", requests the opinion of the Court.

2 The Court are evidently of opinion that the felling and taking away of timber without permission from forests which are notoriously the property of Government, is "Theft".

3. With reference to the case now brought to their notice the Court looking to the long period during which the prisoners were detained under trial, and which has been by no means satisfactorily accounted for, resolve to remit the unexpired portion of the sentence of imprisonment on the 1st 2d and 3d prisoners, and to order the release of the 4th unconditionally if he has not been already set at liberty on security.

C S Chamier

Ep 18.

F. U.

Friday 23d July 1858. } At a Court of the Tanjore Adalut

Present:

G. S. Cooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges

Read Calendar of Case No. 34 of 1858 on the file of the Session Court of Calicut.

(Here Enter F. U. No. 1384 of 1858)

As herein recommended, the Court of Tanjore Adalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

Ed Sall.

C S Chamier

Three and a half years.

* Kalicoodanbil Ramen

Read letter dated the 9th Instant, from the Session Judge of Calicut, submitting for the final judgment of the Tanjore Adalut the record in Case No. 31 of 1858 of the Calendar of the Session Court.

(Here Enter F. U. No. 1405)

The

The Court of Foujdaree Udalut,
on a deliberate consideration of all the circum-
stances of the case in evidence before them,
being of opinion that the proof against the
prisoner,

T. Indanatha Thekethil Ossenar, G.S. Hooper Esqr
is sufficient to convict him of the crime
of Housebreaking and Theft, for which
according to the Mohummedan Law, as
declared in futwas of their Law officers, the penalty
of Hud is awardable, do convict him thereof,
and under the provisions of Section XXI, Regu-
lation VII, of 1802 and Section XXXIV Act VII
of 1843, 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 (7) seven years. 5

Exd Hall.

C.S. Chamier

F.H.

Saturday
24th July 1858 } At a Court of the Foujdaree Udalut.

Present

G.S. Hooper Esquire
T.L. Strange Esquire } Sessions Judges.
C.R. Baynes Esquire

Read Criminal Reports for
the month of June 1858, from the Sessions
Judge of Combaconum.

(Here Enter F.H. No. 1400 of 1858)

The offence in this No. was
Joint Magistrates 1.
Report No. 8. clearly not one of "Fraud": it would appear
to have been either "Theft" or "Breach of
trust". In either case, looking to the value
of the property made away with, the
Magistrate was incompetent to dispose of
it finally.

The above remark, in as far
Subordinate 2.
Judge, No. 70. as it relates to the nature of the crime
charged, is also applicable to this Number.
In this case the Court do not understand
why the prosecution should be ab-

the

the instance of Government.

Read again a letter dated the 23d June 1850, from the Acting Session Judge of Madura, submitting an English translation of the record of the trial of case No 30 of 1850.

(Here Enter F.H. No 1267 of 1850)

Read also Return dated the 17th ultimo, from the acting Session Judge of Madura, to the precept of the Foujdaree Adalut under date the 30th June 1850, calling for certain explanations on the above case.

(Here Enter F.H. No 1408 of 1850)

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner

1st Chocka Tauen

is sufficient to convict him of the crime of Gang Robbery attended with aggravating circumstances, do convict him thereof; and under the provisions of Clause third, Section IV, Regulation XV of 1803, sentence

Present D. Lethang and C. R. Baynes.

24th July 1850.

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 (14) fourteen years.

And being of opinion that the prisoners,

1st Maickee

4th Canjamoottum

and

6th Droongala Tauen

are not convicted on presumptive proof, or on the evidence of credible witnesses, or on their own confession of the crimes charged, do acquit them thereof, and direct that they be set at liberty.

With reference to the above return, the Court of Foujdaree Adalut regret that they cannot withdraw the censure they have passed upon the Acting Session Judge for inattention in sending up the record in a defective state. The declaration made by him that the 7th prisoner's name appeared in

the

the village report was not justifiable in the face of the circumstances set forth in his return which show the point to be a very dubious one. In his letter of reference he should have pointed out these circumstances to the Foujdaree Adalut, and not have left them to infer that no doubt attached to the important fact so declared by him. It appears further that the first information which the acting Session Judge has received of one of the prisoners namely the 7th having confessed before the Acting Joint Magistrate was obtained from the Foujdaree Adalut. The papers containing this information came from the Acting Session Judge and it is obvious that the Acting Session Judge had equal opportunity with the Foujdaree Adalut of discovering the fact of the said confession. The Acting Session Judge's initials appear upon the English translation of the confession as certifying the

the accuracy of the translation, but it would seem that they were affixed as a matter of form without his having perused the paper. The Court of Foujdaree Adalut cannot too strongly reprehend so serious a failure of duty, for it is upon the accuracy of these translations, as certified by the Session Judges, that judgments of the Foujdaree Adalut upon the very important cases submitted to them depend. Moreover it appears that the acting Session Judge did not inform himself properly of the record of the case as sent up to him by the Subordinate Judge before proceeding to trial, though his proceedings set out with the formal declaration that such examination had been made; and it appears to the Court a most serious omission that the acting Session Judge should have undertaken and concluded the trial without carefully ascertaining how the accused may have met the charge brought against them when examined by the authorities first having them before them.

Read Criminal Report A of Case No 36 of 1858, disposed of by the Session Judge of Guntoor, in the month of July 1858.

(Here Enter P.M. No 1109 of 1858)

The

24th July 1858.

The Court of Foujdaree Udalut doubting the propriety of the conviction in this case, resolve to request the Session Judge to forward a translation of the 3d witness' deposition for their consideration.

Precipe returnable in III days.

Ex Dda

C. Chamier

F. U.

Monday 26th July 1858. } At a Court of the Foujdaree Udalut.

Present:

G. S. Cooper Esquire
F. L. Strange Esquire
C. A. Baynes Esquire
} Puisne Judges

Read Letter from the Sessions Judge of Madura dated 12th July 1858, forwarding copy of a letter from the Magistrate dated 9th July 1858.

(Vide Cutcherry F. U. No 1375 of 1858)

1. With reference to Foujdaree Circular Order No 203 the Magistrate of Madura requests the opinion of the Court, as to whether parties who effect their escape from their guards when in custody on charges of a petty character, and who on being afterwards re-apprehended are acquitted of such charges, are punishable for such escape.

2. The intention of the Circular Order above referred to was to declare the opinion of the Court that under the existing

Law

law provision has not been made for the punishment of parties who escape when in custody on a charge of a petty offence.

Read Calendar of Case No 23 of 1858 of the Session Court of Tinnevelly.

(Here Enter P.M. No 1419 of 1858)

1 The Prisoners in this case were convicted of Robbery by open violence, and were sentenced to 14 years imprisonment under Section XXI Regulation VIII of 1802, but as no extreme violence was resorted to on the occasion of the robbery, the Session Judge recommends that the sentence be mitigated to 8 years imprisonment.

2. The Court of Sudder Adalut are of opinion that a sentence of 4 years imprisonment with hard labor in irons will be sufficient in this case, and direct the Session Judge to issue his warrant accordingly.

Read Criminal Reports submitted by the Session Judge of Tinnevelly for June 1858.

(Here Enter P.M. No 1401 of 1858)

The

Report A
Case No 66.

The Foujdaree Adalut would point out to the Session Judge that he was mistaken in designating the offence with which the prisoners were charged as "Forgery". The subjects of forgery are instruments which if authentic would operate to defraud or deprive a man of his rights and dues. A false statement under the signature of A accusing B of Murder is not such an instrument, it may be punishable, according to circumstances, but not as Forgery. The parties in the present case might possibly have been indicted for conspiring falsely and maliciously to impute crime, and to subject an innocent person to the penalties of the law, and the concoction and fabrication of the letter or statement, in prosecution of such design, would have been good evidence of their guilt.

Read Miscellaneous Petition presented on the 5th July 1858 by Mr H.B. Saunders Reader on behalf of Sreenewasa Moodelly of Zillah Chittoor.

(Here Enter P.M. No 101 of 1858)

This is an application for a

Mr C.R. Baynes

reconsideration

re-consideration of the sentence passed by this Court in case No. 30 of 1858 on the file of the Session Court of Chittoor, awarding against the 1st prisoner 2 years imprisonment with hard labor in irons.

The Court of Foujdaree Adalut see no reason to reconsider the sentence referred to, and accordingly resolve to reject the Petition.

& Rd.

S Chunder

F. W.

Tuesday 27th July 1858. At a Court of the Foujdaree Adalut

Present.

G S Hooper Esquire
T L. Strange Esquire } Puisne Judges
C R. Baynes Esquire

Read Calendar of Case No. 37 of 1858 on the file of the Session Court of Nellore.

/Here enter Fee No. 1420 of 1858/

As herein recommended, the Court of Foujdaree Adalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the Sentence passed upon him in the said Case.

× Manda Latchegadu — Ten Years.

Read Criminal Reports from the Session Judge of Calicut for the month of June 1858.

/Here enter Fee No. 1406 of 1858./

Special Assistant Magistrate.

1st. The prisoner in this Case was convicted by the Special Assistant of "Forgery" in having fabricated and uttered

uttered a letter purporting to have been written to him by the Adhighary, with the intention of injuring his character and having him removed from his office. The Court are surprised that the Special Assistant Magistrate — having distinctly found the prisoner guilty of "Forgery", should have proceeded to pass Sentence on him instead of committing him to the Court. This error has been corrected by the Sessions Judge, but the Court would point out, that the offence was not one of Forgery, but merely a Misdemeanour, the property in an office or Situation not being property of the Nature required to bring the Case within the definition of Forgery as given in the Regulations and explained in Circular order No. 263 of this Court.

2. Under these Circumstances all proceedings held after the trial of the Case by the Assistant Magistrate must be considered null, and the

27th July 1858.

Sessions Judge will correct the original Sentence with reference to the above remarks, the term of imprisonment awarded to be considered to have taken effect from the date of such original Sentence.

3. The Court further desire to be informed if Mr. Thomas has passed the highest Standard of examination, without which he is precluded from exercising the extended powers conferred on Magistrates by act VII of 1843.

Recd 18th

C. S. Channell

F. W.

Wednesday
28th July 1858.

At a Court of the Foujdaree Adalut

Present

G S Hooper Esquire.
T L Strange Esquire } Puisne Judges
C. R. Baynes Esquire.

Read Criminal reports for the month of June 1858 from Sessions Judge of Coimbatore.

/ Here enter F. W. No. 1442 of 1858 /

Joint Magistrate /
Nos 10 & 11

The Court would point out to the Sessions Judge that, in their proceedings held in review of the Criminal Reports for the month of April last, the Court ruled that servants deserting their masters when indebted to them, cannot be criminally prosecuted. The Sessions Judge will again call the attention of the Joint Magistrate of Cotacamund to this ruling. The Court further cancel the sentences passed and direct the return of the fines if paid.

No 140.

2 The Sentence in this Case is illegal and must be cancelled, as the

Offence

offence was not committed within the jurisdiction of the Sudder Ameen, Leave should have been requested to have the trial conducted at Coimbatore.

3. The Court are of opinion that irons cannot be awarded under Regulation XIII of 1832. and therefore direct that this part of the Sentence be cancelled. No 166.

Read Calendar of Case No 55 of 1858 of the Sessions Court of Madura

/Here Enter F & C No 1436 of 1858./

The Court of Foujdaree Adalut observe that under Section XXII Regulation VII of 1802, it was incumbent on the Acting Session Judge to have sent up the whole of the proceedings in referring the trial of this Case for their disposal, and as they are not at liberty to dispence with the Course enjoined by law, they direct that an English translation of the whole record be submitted for their consideration.

Precept returnable within VIII days.

Ld 18d.

C. F. Hamilton

F. M.

Thursday 29th July 1858.

At a Court of the Foujdaree Adalut

Present

G. S. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read Miscellaneous Petition presented on the 1st July 1858, by Bashyam Venkatareddy, Zillah Chingleput.

/Here enter F. M. P. No 100 of 1858./

Messrs Hooper and Baynes.

Petitioner appeals from the sentence passed by the Session Judge in Case No 2 of 1858, adjudging him to produce two sureties in the sum of 50 Rupees each, for his good behaviour and appearance for one year; and prays the Foujdaree Adalut, for reasons set forth in the Petition, to cancel the said sentence and direct the sum of 100 Rupees, deposited by his sureties in Court, to be refunded to them.

The

2. The Foujdaree Udalut see no reason for granting the prayer of this Petitioner, for the discharge of his sureties from their responsibility. They observe, however, that money should not have been received into deposit from the sureties, and that it should now be returned to them and bonds taken in the usual form.-

Read again Miscellaneous Petition presented on the 29th March last, by S. Teroomalachurry, Pleader on behalf of Mootoosamy Pillay Zillah Cuddalore.-

/Here enter S. Mc. P. No. 53 of 1858./

Read also return dated the 21st May last, from the Acting Session Judge of Cuddalore, to the precept of the Foujdaree Udalut under date the 17th idem, calling for the original records in Session Case No. 5 of 1858.-

/Here enter F. Mc. No. 1020 of 1858./

1. The Prisoner in this case was convicted by the Sessions Judge of uttering, by suing upon it, a certain bond purporting to have been executed in favor of his father by one Sheena-vasapillay. The Foujdaree Udalut, after referring to the record of the trial and duly weighing the exceptions taken thereto by the Prisoner, in his appeal Petition, and the arguments of his counsel, are of opinion, that the evidence is insufficient to sustain the conviction, and therefore resolve to annul the sentence passed and to direct the release of the Prisoner.

Messrs. Hogg and Bayne

29th July 1858.-

2. The Court observe that the 1st witness, whose signature is said to have been forged, is a deeply interested party, whose testimony must therefore be received with much caution and only in the case of his story being otherwise clear and probable. It is certainly the reverse, for he admits that "he did execute a "bond in favor of the prisoner's father "but for 25 Rupees only; pledging as "security the title deeds of his property,

deed

"bed of family division 8as and after
"wards paid him all but 3 Rupees, taking
"back the bond but leaving the said deeds
"in pledge for a long time for that small
"balance, and that on his subsequently
"asking the prisoner, after the death of
"his father to return them, he refused
"to do so unless he first discharged a
"bond for Rupees 80 which he declared was
"the one, in security for which they had
"been deposited." The prisoner thereu com-
menced an action for the recovery of the
amount, and his simple story "that his
"father had but the defendant money
"on a bond and security both still in
"his hands," is certainly far more proba-
ble than the counter narrative of the defend-
ant as above set forth. The Moonsiff on
trying the case however, relying on the
defendant and the proofs referred to by
him, committed the plaintiff to take
his trial on the criminal charge.-

3. The evidence adduced be-
fore the Sessions Court was directed to

to the proof of three points.- 1st That the
bond was forged.- 2d That the Prisoner was
a party to the forgery.- 3d That he uttered
it knowing it to be forged.-

The Court determined the
1st and 3d against the prisoner; and
declared him liable to suspicion only,
that is, acquitted him, on the 2d.-

4. In respect of the 1st conclu-
sion the Foujdaree Udalut feel constrained
to differ from the Court below. The distrust
created by the story of the 1st witness, the
virtual prosecutor, is by no means remov-
ed by the evidence adduced in its support.-

5. An inference is in the first
place drawn from a comparison of the
alleged forged signature, with the hand
writing of the witness, which is always an
objectionable and uncertain test; and
an attempt is then made by means
of the 2d and 8th witnesses to show
that the prisoner openly went about
with the said forgery, endeavouring to
procure the attestations of witnesses
thereto,

thereto, declaring however that it was a genuine document which only need-
-ed this formal completion.-

6. The evidence of these wit-
-nesses, independently of its improbabili-
-ty, abounds with contradiction, and is moreover flatly contradicted by the 3rd and 4th witnesses for the defence, of whom one is the Brother of the accuser.

7. The 5th 6 and 7th witnesses, who were stated to have attested the bond in question, indeed deny having done so; and it is this which bears most hardly against its authenticity. It might indeed be fatal to it before a Civil Court, but the Foujdaree Adalut considering how usual it is for witnesses in such cases to withhold their testimony under in-
-ducement from the opposite party, and the improbability of the Plaintiff acting them, unless they either were the witnesses of truth, or had consented to depose falsely on his behalf, are re-
-luctant to rely upon this evidence alone

29th July 1858.-

8. alone in the face of other circumstances tending to throw so much doubt on a case involving such serious penal consequences. There being no trustworthy evidence that the bond in question was not actually executed by the 1st wit-
-ness, or that being so executed the Prisoner sought to supply a defect and bestow on it additional weight by fraudulently adding or procuring the attestation of witnesses not present at its execution, the "uttering," of which only the Prisoner has been convicted, of course falls to the ground.-

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

C. J. Channell

Edward.

F. C.

Friday 30th July 1858.

At a Court of the Foujdarree Udalut.

Present

G. S. Cooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read letter dated the 15th instant from Captain C. Smith, Assistant Agent to the Governor in Ganjam.

(Herewith F. C. No. A 1420 of 1858.)

1. The Assistant Agent submits copies of the correspondence which has passed between the Acting Agent and himself, on the subject of the treatment to which Lutchmajee and other native public servants complained of having been subjected to, at the hands of the Assistant Agent; and the latter requests the Foujdarree Udalut to take the whole matter under their consideration, as he believes that the true merits of the case have not been brought to their notice by the Acting Agent.

The

The Court of Foujdaree

2. Udalut observe that this communica-
-tion is most irregular, and in no de-
-gree justified or palliated by the circum-
-stances of the case. The Acting Agent
has, as reported in his return of the 31st
May last, seen fit to call before himself
the matter referred to: for his method
and manner of disposing of it he is ac-
countable only to his immediate su-
-periors; and his acts cannot be allowed
to be called in question by his assistant,
as done in that officer's letter of the
7th July.-

Read letter dated 19th July
1858, from the Session Judge of Masulipa-
-tam, submitting for the final judgment
of the Foujdaree Udalut, the record of
Case No. 41 of 1858 on the Calendar of the
Session Court.-

/Here enter F. Mc. No. 1139 of 1858./

The Court of Foujdaree Messrs. Hogg and Strange
Udalut, on a deliberate consideration
of all the circumstances of the case in
evidence

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

Nullabilly Raumoodoo

is sufficient to convict him of the
offence charged, do convict him thereof,
and under the provisions of Section
X, Regulation VIII of 1802, sentence him
to suffer death by being hanged at
the usual time and place of execu-
-tion.-

Ex. Ell.

C. S. Chamier

F.M.C.

Monday 2d. August 1858.

At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esquire,
J. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read Criminal Reports for the month of June, from the Sessions Judge of Cuddapah.

(Here enter F.M.C. No. 1447 of 1858.)

No. 108. 1. Unless there were other acts charged against the prisoners than those set forth in the indictment, their committal on a charge of "attempt at Murder" was most improper. They should have him bound over to keep the peace, or at least might have been tried for an assault.

Nos. 112-113. 2. These cases fall within the jurisdiction of the Criminal Court. It does not appear that the prisoner was an old offender.

Ex 18th [illegible]

S. Chamier

F. U.

Thursday.—
5th August 1858 At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre
T. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges.

Read Calendar of Case No. 14 of 1858

on the file of the Session Court of Tellicherry.

/ Here enter F. U. No. 1467 of 1858 /

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.—

Korombramadathil Kavary Kanan — Five years.

Read Calendar of Case No. 40 of 1858

on the file of the Session Court of Salem.—

/ Here enter F. U. No. 1468 of 1858 /

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.—

Ramasawmy — Three years.

Read letter dated the 20th ultimo from the

the Sessions Judge of Masulipatam.—

/Here enter F.C. No. 1140 of 1858./

The Sessions Judge desires to be informed how a prisoner, convicted of an offence, is to be treated whilst the trial is under reference to the Foujdaree Adalut, that is, whether he ought to be confined in irons; or, on the contrary, without irons; or, whether it is in the discretion of the Sessions Judge to order him to be kept in irons, or in simple confinement, according to circumstances.—

2 The Judges are of opinion that, in general, prisoners whose cases are under reference to the Foujdaree Adalut, should not be put in irons; but that where there may be special reasons, as, for instance, where the prisoner is a desperate character or has been found guilty of a capital offence, it is discretionary with the Sessions Judge, as a matter of precaution and safety, to order him to be confined in irons.—

Read letter dated 21st ultimo from the Acting Agent to the Governor of Fort St. George at Ganjam forwarding the correspondence passed between him and Captain Smith regarding Case No. 11 of 1858.—

/Here enter F.C. No. 1159 of 1858/

The

The Acting Agent having omitted to send the proceedings of which the Assistant Agent complains, the Court of Foujdaree Adalut resolve to call upon him to transmit the same with the least practicable delay.—

Precept returnable in 7 days from and after its receipt.—

Ex. R.D. C. S. Clarke

F. 16.

Friday 6th August 1858.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire — Puisne Judges.
J. L. Strange Esquire —
C. R. Baynes Esquire —

Read letter dated 17th Ultimo, from the Acting Agent to the Governor of Fort St. George at Ganjam, reporting his opinion regarding the Prisoners in Case No. 16 of 1858.

/Here enter F. 16. No. 1165 of 1858./

1. The Court of Foujdaree Adalut concur in the conviction of the 1st Prisoner in this case of Housebreaking and Theft, and in the sentence of 7 years' imprisonment proposed to be passed upon him by the Acting Agent.-

2. They also concur in the acquittal of the remaining prisoners.—

Read letter dated 24th July 1858, from the Agent to the Governor of

of Fort St. George at Vizagapatam, submitting for the final judgment of the Foujdaree Udalut, the record of case No. 4 of 1858 on the Calendar of the Agent's Court.-

/Here enter F. C. No. 1491 of 1858./

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the case and evidence before them, being of opinion that the proof against the Prisoners.- Mr. Baynes.

1st Buttoola Jaganathum
and
2d Gontana Ramaswamy

is sufficient to convict them of the offence charged, do convict them thereof, and sentence them to be transported to such place or places beyond sea, as the Governor in Council shall appoint, there to be imprisoned, and kept to hard labor on the public roads or other public works, for and during the period of their natural lives.-

E. Ed. C. S. Chemier

F. C.

Saturday 7th August 1858.

At a Court of the Foujdaree Udalut.

Present

G. S. Hooper Esquire
T. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read again Calendar in Case No. 53 of 1858 on the file of the Session Court of Madura.-

/Here enter F. C. No. 1315 of 1858./

Read also return dated the 30th Ultimo, from the Acting Session Judge of Madura, to the precept of the Foujdaree Udalut under date the 10th idem, requiring a full explanation on the conduct of the police in the investigation of case No. 53 of 1858 on the file of the Session Court of Madura.-

/Here enter F. C. No. 1490 of 1858./

The Court of Foujdaree Udalut observe that the Acting Session Judge should have proceeded in this matter

matter pursuant to Section XXXIX act VII of 1843, and they direct him to do so now.-

2. They also direct that the Acting Magistrate be called upon to explain with reference to para 6 of the Police Amens Urzee, what orders were given to that officer on the subject of the committal of cases to the Criminal Court, on insufficient evidence.-

Precpt returnable within said 1 day from and after its receipt.-

E & EA.

C S Clarnier

F. 66.

Tuesday 10th August 1858.

At a Court of the Foujdaree Adalut

Present

G. S. Hooper Esquire
J. L. Strange Esquire } Puisne Judges
C. R. Baynes Esquire

Read Calendar of Cases Nos 60 and 61 of 1858 on the file of the Session Court of Madura.-

(Here enter F. 66. No 1488 of 1858.)

1. The Foujdaree Adalut seeing reason to doubt the propriety of the conviction in this case, resolve, before passing final orders thereon, to direct that a translate of the Record may be submitted for their consideration. They return the translate received with the Acting Session Judge letter of the 31st July, in order that they may be incorporated therein, to the saving of time and labour.-

2. The infliction of corporal punishment to be suspended pending

pending further orders.-

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

Read Criminal Report A of Cases Nos. 44, 45, 46, and 47 of 1858 disposed of by the Session Judge of Gunjoor for the month of July 1858.-

/Here enter F. C. No. 1514 of 1858./

The punishment awarded to the prisoner in these four cases appears to the Fouzdaree Adalut very inadequate, even the maximum allowed by the law under which the sentence was passed not having been inflicted, while from the circumstances shewing the prisoner to be an habitual receiver of stolen property, the Judges are of opinion that the power vested in the Session Judge by Clause 3d Section IV Regulation VI of 1822 would have been properly exercised in sentencing the prisoner to a much longer period of imprisonment.-

Read

Read again Criminal Report A of Case No. 36 of 1858 disposed of by the Session Judge of Guntoor in the month of July 1858.-

/Here enter F. C. No. 1409 of 1858./

Read also return dated 29th July 1858, from the Session Judge of Guntoor, to the precept of the Fouzdaree Adalut under date the 24th idem, directing him to forward a translation of the 3d witness' deposition in Criminal Case No. 36 of 1858 on this Court's file.-

/Here enter F. C. No. 1498 of 1858./

The Court of Fouzdaree Adalut observe that the judgment gives a very insufficient description of the evidence. The deposition sent up shows that the prisoner was found with the article he is alleged to have stolen after so long an interval as about 24 hours, and that he attempted to pass it off as his own, and was not bringing it for restoration thereof to its owner, as asserted by him in his defence.

These

These facts attach Criminality to the prisoner, and should have been brought out in the judgment, which contains nothing calculated to show that the circumstances of the case were other-wise than the prisoner represented them to be in his defence.-

Read Petty Calendars of the Magistracy for the 2d Quarter of 1858 from the Session Judge of Chittoor.-

/Here enter F. No. 1510 of 1858./

The Court would point out that the offence, with which the prisoners were charged in these Nos, is not punishable under the Regulation quoted.- Calendar I. Nos 19 – 13 20 – 16.

Read letter dated the 31st Ultimo, from the Acting Session Judge of Madura, submitting for consideration statements of the two Prosecutors in Calendar Case No 61 of 1858.-

/Here enter F. No. 1489 of 1858./

1. The Acting Session Judge asks the opinion of the Foujdaree Adalut as

as to the propriety of committing the Prosecutors in Case No 61 in which he has convicted the prisoners of Highway-Robbery, for Perjury.-

2. The Court Foujdaree Adalut cannot understand why the Session Judge should be in doubt as to the 1st prosecutor, as his own very reasonable supposition goes to clear him, from the imputation of the absurd and mo-tiveless falsehood, and to leave no reason to doubt that the mistake, as al-leged by the party, arose in the Sub-ordinate Court.-

3. In respect of the 2d Pro-secutor the Judges can only desire the Acting Session Judge to exercise his own discretion in the spirit of the Circular Order 31st January 1814 and after duly considering how far the offence of the individual falls within the scope of the law, as well as how far it must be put down to malicious intention, or how far it may be attributed to

to ignorance, fear, confusion, want of recollection or the like. It would not be proper for the Judges to pass an opinion on the propriety of the committal or otherwise, when the case may again come before them in appeal on that very point.-

Exd Sdd.

C S Clarke

F. H.

Wednesday. At a Court of the Foujdaree Adalut
11th Augst 1858.

Present

G. S. Cooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read letter dated 26th Ultimo, from the Acting Agent at Ganjam, submitting a report of Criminal Case No 18 of 1858 on his file.-

/Here enter F. H. No 1492 of 1858./

1. The Acting Agent convicts the prisoner in this case of wounding with intent to kill, and recommends that a sentence of 3 years' imprisonment be passed upon him.-

2. The Court of Foujdaree Adalut concur in the conviction of the prisoner, but are of opinion that 3 years' imprisonment with hard labor in irons is an inadequate punishment for so brutal and malicious an act committed on a poor defenceless woman, and made

11th August 1858.

made evidently with intent to take her life. They therefore resolve to sentence him to (5) five years imprisonment with hard labor in irons, and direct the Acting Agent to issue his warrant accordingly.-

Exd
Asst.

C. Chamier

F. C.

Thursday 12th August 1858

At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esqr. 1st
J. L. Strange Esqr. 2nd
C. R. Baynes Esqr. 3rd

} Puisne Judges.

Read Criminal Reports from the Sessions Judge of Bellary for the month of June 1858.

Here enter F. C. No. 1457 of 1858.

No. 133. The Foujdaree Adalut observe that it was ruled by them on the 10th April 1847 that confinement in irons cannot be awarded under Regulation IX of 1833; that portion of the sentence must therefore be cancelled.

Read letter dated the 4th instant from the Sessions Judge of Bellary, requesting instructions as to whether the Magistrate would be justified in apprehending and forwarding to the authorities in Mysore, a British subject charged with an offence against the revenue laws of that Kingdom.

Here enter F. C. No. 1508 of 1858.

The

The Judges are of opinion that the Offender would be amenable to the provisions of Act I of 1849; and that the Case is therefore one which the committing Magistrate, under Section III of that enactment, should Report without delay to the Government, for their orders.

Read letter dated the 7th instant from the Sessions Judge of Nellore, in which that Officer solicits the opinion of the Judges as to whether the offence in Case No 28 on the Sessions Courts Calendar for the current year, ought not to have been headed "Calumny" instead of conspiracy.

(Here enter J. Cr. No 1509 of 1858)

The Court of Fouzdary Udalut are of opinion that the offence in question was properly designated as a conspiracy. The Court observe that no language of a calumnious nature was attributed to the accused; and further that where calumny is made punishable by the Regulations, as by Section XXXII, Regulation IX of 1816, it is verbal slander, addressed direct to the party calumniated, which is contemplated; such language being always calculated to provoke a breach of the peace, and not defamatory writings

writings, for which the proper remedy is by action.

Read miscellaneous Petition presented on the 22d March 1858 by J. D. Mayne Esq Pleader on behalf of Campully Veerabudrioh of Zillah Nellore.

(Here enter J. M. P. No 47 of 1858)

Mess^rs G. S. Hooper and J. D. Strange

1. Petitioner appeals from the sentence passed by the Sessions Judge in Case No 47 of 1857 awarding against him 4 years imprisonment with hard labor in irons.

2. The Court of Fouzdaree Udalut see no ground to doubt the propriety of the sentence appealed against; and accordingly resolve to reject the petition.

8 Bd.

C. S. Chamier

Friday
13th August 1858.

F.U.

At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read letter dated the 4th instant from the Magistrate of North Arcot

/Here enter F.U. No. 1515 of 1858/

1. It appears from this communication that among a gang of dacoits arrested within the limits of the Magistrate's jurisdiction, is an individual named Boodeegandoo alias Vencata-chellum, who is charged with having committed several offences in the Cuddapah district as well as others in that of North Arcot; and the Magistrate considers that the ends of justice would be promoted, if the said person were tried at Chittoor for the offences he comitted in the Cuddapah district.-

2. The Court of Foujdaree Udalut observe that the party in question is charged with having committed several grave offences within the Magistrate's own jurisdiction, and that it is therefore not clear why it is at present necessary to proceed against him for the offences he is supposed

to

to have committed in the Cuddapah district. The Court are of opinion that the Magistrate should proceed in the first instance on the charges arising in his own district, and that if convictions should be had thereon it will be unnecessary to investigate the rest. Should the party be acquitted it will then be time enough to consider the course to be taken in respect of the offences, which he is alleged to have committed in the district of Cuddapah.-

Read letter dated the 31st Ultimo, from the Acting Agent to the Governor in Ganjam, forwarding a duplicate copy of the decision in Case of M. Vencata Row.-

/ Here enter F.C. No. 1519 of 1858 /

1 It appears that on the 28th May 1857 M. Vencata Row, late Head of Police of Aska, was arraigned before the Assistant Agent, Captain Smith, on two distinct charges joined in one indictment. Viz.-

1st With theft of public records.-

2d With having been found in possession of a document supposed to be written with certain evil designs.-

2 He was sentenced on the 19th June 1857 to be imprisoned for three months and to pay a fine of Rupees 100, or in default to be imprisoned for a further period of three months under Section VII, Regulation X of 1816. On appeal made

to

to the Acting Agent the case was remanded for further investigation on the 7th August. What was done thereon is not very apparent, but eventually the Acting Agent determined to call up the case before himself, and having done so, came to the conclusion on the 31st December 1857, that the conviction was wrong and the accused entitled to an acquittal, which however he hesitated to pronounce, because on the 13th August preceding Captain Smith had, by a sort of anticipating appeal, requested that if he did not confirm the sentence he would refer the matter to the Foujdaree Adalut.-

3 The misfortunes of this extraordinary case did not terminate here. The Acting Agent's proceedings of the 31st December 1857 making reference accordingly, if forwarded by him, were never perused by the Foujdaree Adalut, and it was only from a letter of the Agent dated 7th July and received on the 17th, that they learnt it was supposed to be before them; and they were then obliged to send for the proceedings from which the above facts have been gathered.-

4 The Court of Foujdaree Adalut hope to hear that under these circumstances the unfortunate victim of all this official neglect, and ignorance of the plainest duty, has been allowed to be on bail: they of course direct his immediate and unconditional

release

release and would point out that every moments detention by the Acting Agent on the plea of making reference to the Foujdaree Udalut after he had virtually acquitted the Prisoner, involved an illegal imprisonment.-

Precept returnable in II days.-

Circular.

The Court of Foujdaree Udalut having ruled that the provisions of Act III of 1857 are only applicable in cases where the trespassing cattle are doing damage, deem it necessary to explain that they consider the fact of trespass as legally involving damage, subject to the contingency of its being established on the part of the owner of the cattle, that the place trespassed on was of such a nature, as to exclude the possibility of any damage or annoyance being caused by such trespass.-S

Ex Ord. C S Clarke

Saturday
14th August 1858

F. U.

At a Court of the Foujdaree Udalut

Present.

G. S. Hooper Esquire
T. L. Strange Esquire } ..... Puisne Judges
C. R. Baynes Esquire

Read Miscellaneous Petition presented on the 1st July 1858 by S. Veeramala Chary, Pleader on behalf of Mohunsing 1st prisoner in case No. 5 of 1858 on the file of the Principal Sudder Ameen's Court of Nellore.-

/Here enter F. M. P. No. 99 of 1858./

Mess. Strange and Baynes.

1. Petitioner appeals from the order of the Session Judge, under date the 30th March 1858, confirming the sentence passed by the Principal Sudder Ameen in the above Criminal case, holding the petitioner to security in a charge of theft committed in the Court of the Moofty Sudder Ameen of Nellore.-

2. The Court of Foujdaree Udalut see no reason to impugn the correctness of the sentence complained of, and accordingly resolve to reject the petition.-

Read letter from the Session Judge of Coimbatore dated 26th July 1858, submitting a letter from the Magistrate of the district under date 21st July 1858.-

/Here enter F. U. No. 1455 of 1858/

With

1 With reference to proceedings of this Court of the 7th June pointing out to the Joint Magis-trate of Coimbatore that a servant cannot be Criminally punished for deserting his master's service, the Magis-trate of the district now submits for the consideration of the Court that in the cases disposed of by the Joint Magistrate, the servants having deserted after receiv-ing an advance of wages from their masters, their offence would amount to "fraud" as laid down in a previous ruling of this Court. The Magistrate at the same time states that this latter ruling has had a con-siderable influence in diminishing the frequency of the offence.

2 The Court are fully aware that the desertion of masters by their servants requires a better check than that of liability to be called on civilly to account for breach of contract, but as yet the legislature has provided no other remedy.

3. With regard to the circumstance that the servant deserting may have received an advance of wages from his master, this would not of itself, the Court have to observe, involve "fraud," but might do so if it could be established that the advance was received with no design to render the services in consideration of which it was made, but under a false pretence for the unlawfully obtaining and appropriating the money.

Read

Read letter from the Acting Session Judge of Salem forwarding an affidavit certifying that one J. R. Davis at present under sentence of Session's Court of Salem is a British subject.

/Here enter F.U. No. 1532 of 1858./

Presuming that the Session Judge is satisfied of the authority of the certificate of the legitimacy and parentage of J. R. Davis at present under sentence of the Session Court of Salem, the Court of Foujdaree Udalut authorise the Session Judge to cancel the sentence under which he is imprison-ed, and to order his immediate release.

Read Extract from Minutes of Consultation dated 7th July 1858.

/Here enter F.U. No. 1330 of 1858/

Read also return and supplemental return from the Session Judge of Chittoor to the precept of this Court dated 10th July, calling for a report of a case disposed of by the Joint Magistrate of the District.

/Here enter F.U. Nos. 1404 and 1454 of 1858/

Read also letter from Session Judge of Chittoor dated 29th July 1858.

/Here enter F.U. No. 1458 of 1858/

In the above Extract from Minutes of Consultation the attention of the Court of Foujdaree Udalut was directed to a case disposed of by the Joint Magistrate of North Arcot in which a party, was

was charged with having placed a chair upon the rails with the intention of causing a train to be thrown of the line and was sentenced by that officer to imprisonment for four months, a sentence which appeared to the Government most inadequate, considering the frequency of the offence and its serious nature. From the information received by the Court it appears that the prisoner was apprehended in the act of placing the chair upon the line, and on being taken before the station Master stated he had done so in the hope of thereby causing a train to be thrown off the rails in which case he expected to be employed and paid for assisting to replace it.-

2. On inquiry the Joint Magistrate found it proved that the prisoner had placed the chair upon the line, but as there was no evidence to establish that he had done so with an intent to do harm or with a knowledge of the probable injury that would result from the act, the Joint Magistrate considered himself justified in disposing of the case under Section XXVIII Act XVIII of 1854 which provides for the punishment by the Magistrate of persons rashly or negligently doing acts likely to endanger the safety of passengers.-

3. The Court have to observe that the case was clearly beyond the jurisdiction of the Magistrate. The prisoner was charged with

14th August 1858.

with wilfully doing an act likely to endanger the lives of travellers, and under the provisions of Section XXV of the act quoted, should have been committed for trial before the Session Court, in which case in all probability a much more severe sentence would have been imposed.-

4. As regards the grounds upon which it would appear that the Joint Magistrate considered he had jurisdiction in the case namely that the wilful intention of doing harm &c. was not established by evidence and that consequently the essential part of the higher offence was absent, the Court have to remark that the admission of the prisoner to the station Master and which was in evidence before the Joint Magistrate showed not only that he committed the Act with a perfect Knowledge of its probable consequence, but also that he did so with the wilful intention of producing those consequences from which he expected to derive benefit, on this point the Court would further observe for the instruction of the Joint Magistrate that where a party deliberately commits an act which ordinary thought or foresight would show must be attended with consequences endangering the lives of others, the law will presume the wilful intention, and it is not necessary that such wilful intention should be established in evidence; in the eye of the law

law the offence is constituted and the burthen of proving non intention and ignorance of consequences or other circumstances that would divert the act of its criminality devolves upon the party charged, and this he can only do on his trial before a tribunal competent to take final cognisance of his case.

5 With reference to the question as to the submission of a report to the Session Judge in the form A. of cases of this description, the Court are of opinion that such reports should embrace all cases tried by the Magistracy which they have not been directed to enter in the Petty Calendars.

Dd 18 D.

C. S. Lamie

Monday — 16th August 1858.

F. M. C.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire,
J. C. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read Miscellaneous Petition presented on the 17th July 1858, by M. Venkataroyaloo Naidoo, Pleader on behalf of M. Sutchinnarcauttum, of Zillah Rajahmundry.

(Herewith F. M. D. No. 110 of 1858.)

Messrs Strange and Baynes

1. This is an appeal from the sentence passed by the Session Judge in Case No. 8 of 1858 on the file of the Session Court of Rajahmundry awarding against the Petitioner 12 months' imprisonment with hard labor without irons, on a charge of Breach of Trust.

2. The Foujdaree Adalut see no reason to interfere with the sentence appealed against, and accordingly resolve to reject the petition.

Read

Read letter dated 29th ultimo, from the Assistant Agent in Ganjam, submitting the explanation called for by the Zoujdaree Adalut in their proceedings of the 12th July 1858.-

/Here enter F. M. No. 1516 of 1858./

With reference to the explanation now submitted by the Assistant Agent, Captain Smith, the Court direct that he explicitly state the grounds upon which the parties stated to be followers of Chokra Bissaye were detained in custody, including the nature of the charge brought against them, the evidence upon which they were apprehended, and the sources of the further evidence against them which he expected to obtain.

2. The Assistant Agent will also submit a copy of the explanations, on the subject of the institution of these parties, addressed by him to the late Acting Agent Mr. William Knox, also a copy of any remarks that Mr.

Mr. Knox may have made on this communication.

Precept returnable within X days from and after its receipt.

Read Calendar of Case No. 11 of 1858, from the Session Judge of Chicacole.

/Here enter F. M. No. 1530 of 1858./

The Court of Zoujdaree Adalut are of opinion that the sentence in this case is unduly lenient.

Read Calendar of Case No. 40 of 1858, on the file of the Session Court of Nellore.

/Here enter F. M. No. 1537 of 1858./

As herein recommended, the Court of Zoujdaree Adalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.-

* 1. Mamurpalli Villavadu alias Venkatasingadu.
2. Achicanti Venkatasingadu.
4. Achicanti Rangadu - and
8. Salava Venkatasingadu.

Ten years.

Ed Elliot. C. S. Chamier

F.No.

Wednesday 15th August 1858.

At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esquire,
J. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read Calendar of case No. 64 of 1858, submitted by the Acting Session Judge of Madura.

/Here enter F.No. No. 1533 of 1858./

The Court of Foujdaree Adalut desire that the Session Judge be informed that he was not justified in refusing to examine the witnesses cited by the prisoners because he had formed an opinion that their defence was not true. that the trial is therefore incomplete and that he must now ascertain from them what witnesses they desire to have summoned and after examining them pass sentence afresh, the former sentence being null and void.

Read

Read Calendar of case No. 45
of 1858, on the file of the Session Court
of Cuddalore

(Here enter F. M. No. 1540 of 1858.)

As herein recommended,
the Court of Foujdaree Adalut resolve to
authorize the Session Judge to issue
his warrant for the imprisonment
of the prisoner for the period specified
in the margin, in mitigation of the
sentence passed upon him in the
said case.

* Singalance
3 years

Read Calendar of case
No. 19 of 1858, on the file of the Session
Court of Honore.

(Here enter F. M. No. 1547 of 1858.)

As herein recommended,
the Court of Foujdaree Adalut re-
solve to authorize the Session Judge
to issue his warrant for the imprison-
ment of the prisoner for the period
specified in the margin, in mitiga-
tion of the sentence passed upon him
in the said case.

† Boondee
Five years

Read Miscellaneous Petition
presented

15th August 1858

presented on the 22d July 1858, by Sa-
miru late Police Ameen, Zillah of
Salem.

(Here enter S. & Fell. P. No. 23 of 1858.)

Messrs Hooper and Baynes

The Petitioner complains
of certain remarks recorded by the
Acting Session Judge of Salem
in Case No. 2 of 1857 on the Calendar
of the Session Court, declaring his
suspicion of the Petitioner having
been concerned in the uttering of
copies of certain falsified documents
and which remarks Petitioner
alleges have led to his removal from
office and he therefore prays the
Court to acquit him of the suspicion,
and to declare him fit for public
employment.

2. The Court of Foujdaree
Adalut observe that the remarks of
the Acting Session Judge, being a
mere matter of opinion, it is com-
petent to the Petitioner's employer to
judge of the wright which ought

to

to be attached to them; and as no order has been issued, and there is nothing on record necessitating Petitioner's dismissal, or inhibiting his re-employment, the Judge can afford no relief on this case, and accordingly dismiss this Petition.

Read Calendar in Case No. 36 of 1858, of the Session Court of Calicut.

/Here enter F. M. No. 1507 of 1858./

Read also letter dated 4th instant, from the Session Judge of Calicut, forwarding the record of Case No. 36 of 1858.

/Here enter F. M. No. 1544 of 1858./

The prisoners in this case, charged with Highway Robbery have been convicted in the Session Court, and the Session Judge refers the trial, tho' not otherwise referrible, because he would have the Foujdaree Adalut sentence them to transportation for life in exercise of the power vested in them by Clause third, Section IV, Regulation

Regulation XV of 1803. The Court observe, however, that such enhancement of punishment is intended by law rather for personal guilt, than to be applied on such grounds as the Session Judge suggests. They are, moreover, of opinion that the sentence which the Session Judge is competent to pass (14 years' imprisonment with labor and stripes) will sufficiently meet the ends of justice; and they accordingly return the Calendar of the case in order that he may insert it therein as usual. Of course any abstract of the evidence or his appreciation thereof, need not now be entered therein.

C. S. Chamier

Dr. R. D.

J. No.

Thursday 19th August 1858.

At a Court of the Fouzdaree Adalut

Present

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges

Read Miscellaneous

Petition received on the 17th July last, through the Sessions Judge of Salem, on from Maroovoor alias Canyen, of that Zillah.

(Here enter J. No. P. No. 105 of 1858.)

Mess^rs Strange and Baynes. 1. Petitioner appeals from the sentence passed upon him by the Sessions Judge in Calendar Case No. 31 of 1858.

2. The Court of Fouzdaree Adalut do not consider that any grounds have been alleged for interfering with the sentence appealed against, and accordingly resolve to reject the petition.

Read letter dated the 5th

5th instant from the Acting Agent in Ganjam.-

/Here enter F. M. No. 1538 of 1858./

1. The Acting Agent enquires whether it is intended that the provisions of the Circular order of the Foujdaree Udalut dated the 19th Ultimo, relating to the appointment of Vakeels specially to conduct criminal prosecutions in cases where pleaders may have been retained by the prisoners, should be carried into effect in Ganjam; there being no regularly constituted pleaders attached to his Court, and the persons practising therein as the agents of parties being, in his opinion, wholly unworthy of confidence.-

2. The Court of Foujdaree Udalut observe that the order leaves it optional with Judges to appoint a Vakeel or not in such cases; and that the Agent need not therefore select

select any person for the duty, if he feels no confidence in those from amongst whom the selection must necessarily be made.-

Read Calendar of Cases

No. 42 of 1858 of the Session Court of Nellore.-

/Here enter F. M. No. 1560 of 1858./

As herein recommended,

the Court of Foujdaree Udalut resolve to authorize the Session Judge to

1st Vobbana Soobbadu.
2nd Potturu Bandadu.
3rd Ege Papadu.
4th Do. Lathigadu.

5 years' imprisonment.

issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.-

Read Miscellaneous

Petition presented on the 12th July 1858, by J. W. Branson Esquire, and S. Seroomala Chary, Pleaders on behalf of B. Venganah, of Zillah Bellary.-

/Here enter F. M. P. No. 108 of 1858./

Messrs. Strange and Baynes.

This is an appeal from

from the sentence of the Sessions Judge in Case No. 1 of 1858.-

2. Before finally disposing of this Petition the Foujdaree Adalut resolve to call upon the Sessions Judge to state on what evidence he held it proved that the deceased died of cholera.-

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

Read again Miscellaneous Petition presented on the 22d March last, by J. D. Mayne Esquire, Pleader on behalf of Duntoo Ramunnah, 1st Prisoner in Case No. 39 of 1857 on the file of the Sessions Court of Rajahmundry.-

/Here enter F. Mc. P. No. 48 of 1858./

Read also return dated the 31st May last, from the Sessions Judge of Rajahmundry, to the precept of the Foujdaree Adalut under date the 4th Idem, directing the transmission of

of an English translation of the record in the above case.-

/Here enter F. Mc. P. No. 1159 of 1858./

Read also Miscellaneous Petitions received on the 18th March last, through the Sessions Judge of Rajahmundry, on behalf of Uddala Nagunnah, Prisoner in Case No. 42 of 1857 on the file of the Sessions Court of that Zillah.-

/Here enter F. Mc. P. Nos. 424 & 43 of 1858./

Messrs. Strange and Baynes.

1. The Court of Foujdaree Adalut are not satisfied that the evidence on which these prosecutions depend, is such as can be safely relied on for the conviction of the Prisoners.-

2. They observe by the evidence of the 2d witness for the prosecution, that the fact of the disputed payment said to have been made on the 25th December 1855, was entered in the 1st Prisoner's current accounts. It is not said on what

day

day the entry was made, but there is nothing to contradict the presumption that it was on a day nearly approaching the aforesaid date. It was on the 5th January 1856 that the prosecutor entered his suit against the 4th witness for fulfilment of the contract between them, on the allegation of non-payment of the consideration in question. It may very well have been the case that the aforesaid entry was made before the said suit was put in, and this meets the presumption raised against the 1st prisoner, based on the circumstance that the fact of the payment was not brought forward until so late a day as the 11th February when the 1st prisoner raised his suit. As regards the oral evidence in the case, the Court observe that it is quite possible that the witnesses depended upon

19th August 1858.

upon by the 1st prisoner to establish the said payment, may have been gained over by the prosecutor, while it is difficult to believe that the Prisoner would have introduced them as having taken part in the matter unless he had had grounds for expecting that they would uphold his allegation. The Court are unable thus to find any evidence of a nature to be safely depended upon, to show that the prosecutor's representations are based on truth, and those of the prisoners on falsehood. They resolve consequently to set aside the sentences passed upon the accused, and to direct that they be set at liberty.

C. S. Chamier

Ex. Dec.

F No.

Saturday
21st August 1858 At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre. —
T. L. Strange Esqre. — } Puisne Judges
C. R. Baynes Esqre. —

Read Calendars of Cases Nos. 18
19, and 20 of 1858 of the Session Court of Chingleput.

/Here enter F No. Nos. 1579, 1580 and 1581 of 1858/

The Court of Foujdaree Udalut
direct that the prisoner,
1st Yellum
be banished to the District of Masulipatam there
to be imprisoned and kept to hard labor in irons
on the public roads or other public works for and
during the period of /14/ fourteen years.—

Copy to the Session Judge of Masulipatam.—

Read Calendar in Case No. 27 of
1858 on the file of the Session Court of Coimbatore

/Here enter F No. No. 1563 of 1858/

As herein recommended, the Court
of Foujdaree Udalut resolve to authorize the Session
Judge to issue his warrant for the imprisonment of the
prisoner for the period specified in the margin, in
mitigation of the sentence passed upon him in the

× Moottoomully Chetty — Ten years

said

said case.-

Read Calendar in Case No. 42 of 1858 on the file of the Session Court of Calicut.-

/Here enter F. Ub. No. 1567 of 1858/

As herein recommended the Court of Fouzdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case. The Session Judge can superadd lashes of his own authority.-

Mpoodeh Cotty Ally. Four years

Read Criminal reports for the month of July 1858 from the Session Judge of Trichinopoly.-

/Here enter F. Ub. No. 1578 of 1858/

Irons cannot be awarded under section VIII Regulation XIII of 1832, that portion of the sentence must therefore be cancelled.-S

No. 56 cattle poisoning.-

Do 18 D.

C. S. Chancie

Read letter dated the 31st July 1858 from the Session Judge of Mangalore, submitting for the final judgment of the Fouzdaree Udalut the record of case No. 20 of 1858 on the Calendar of the Session Court.-

/Here enter F. Ub. No. 1495 of 1858/

The

Messrs Hooper and Strange

Offence charged Murder.

The Court of Fouzdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners

1st Birmanna

2d Chala

and

3d Timmappa

is sufficient to convict them of the offence charged, do convict them thereof; and sentence them to be transported to such place or places beyond sea, as the Governor in Council shall appoint, there to be imprisoned, and kept to hard labor on the public roads or other public works, for and during the period of their natural lives.-S

Do 18 D.

C. S. Chancie

F. Ho.

Monday 23rd August 1858.

At a Court of the Fouzdaree Udalut

Present

G. S. Hooper Esquire
J. L. Strange Esquire } Puisne Judges
C. R. Baynes Esquire

Read Petty Calendars of the Magistracy for the 2d Quarter of 1858, submitted by the Session Judge of Honore.-

/Here enter F. Ho. No 1587 of 1858./

Calendar I. No 35 49 Breach of Abkarry Rules.

1. The selling of liquor to European Soldiers although forbidden by the Moochilkas is not punishable by the Magistrate. In the latter of these two cases noted in the margin, it is not clear of what offence the 1st prisoner was convicted. He was charged with "selling to second defendant with intention to evade &c" but no charge was brought against the 2d defendant and the sale to him would appear

appear to have been legal and authorised. The sentence in these cases must be cancelled.

2. The parties in this case should have been charged with "Breach of the Peace" or "affray".- — N° 63 Assault.

Read Calendars of the Magistracy for the 2d Quarter of 1858, submitted by the Sessions Judge of Coimbatore.-

/Here enter F. C. N° 1541 of 1858./

1. Looking to the value of the animals in question in these N°s the Court are of opinion that these cases should not have been disposed of as "petty thefts". The parties should have been forwarded to the Criminal Court or sentenced by the Magistrate under his extended powers.- — Calendar I N°s 63. 65. 66. 74-75. 88. Cattle Stealing.

2. The sentence in this case being clearly illegal, the Court direct that it shall be cancelled and the fine returned.- — N° 87. Neglect of duty and abuse of authority.

Read letter dated the 9th instant, from the Magistrate of Tanjore, applying

applying under the provisions of clause first, Section II, Regulation III of 1827, for the authority of the Government being obtained for the trial of one Arnachella Padiachee before the Sessions Court of Combaconum, on a charge of escaping from custody while undergoing in the Guntoor Jail a sentence of imprisonment for a heinous offence.

/Here enter F. C. N° 1528 of 1858./

The Court of Foujdaree Adalut are of opinion that under Act x of 1858 the trial may be held in whatever Zillah the prisoner may be recaptured; and that the Magistrate may, therefore, commit the party in question to the Sessions Court, without the Special authority required by the enactment to which he refers.-

Read letter dated the 12th August 1858, from the Sessions Judge of Masulipatam, enquiring whether it is not incumbent upon the medical officer in charge of the jail, or

are

one of his subordinates, to be present at the execution of criminals.-

/Here enter F. Mo. No. 1557 of 1858./

The Court of Foujdaree Adalut observe that there is no rule or order requiring the attendance of a medical officer at the execution of capital sentences; and that, as the body hangs for an hour, and is then cut down and buried at the foot of the gallows, no certificate or other declaration of such officer is needed.-

Read Miscellaneous Petition presented on the 12th July 1858, by J. W. Branson Esquire, Pleader on behalf of Chinnavand another of Zillah Madura.-

/Here enter F. Mo. P. No. 114 of 1858./

1. This is an appeal from the sentence of the Acting Session Judge in Case No. 26 of 1858.-

2. Before finally disposing of the petition, the Court of Foujdaree Adalut

Adalut resolve to call upon the Acting Session Judge of Madura to transmit an English translation of the entire record of the above case; and further to suspend execution of the sentence appealed against, until further orders.-

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

Read Calendar in Case No. 63 of 1858, on the file of the Session Court of Madura.-

/Here enter F. Mo. No. 1592 of 1858./

As herein recommended, the Court of Foujdaree Adalut resolve to authorize the Acting Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.-

1st Hirookaundy alias Aundy.	
2. Kilavan	
3. Chittan	
4. Moothoocurpen	
5. Curpanan	
6. Ramen	
7. Ramasamy	
8. Swanandy*	
9. Chinnana Nadan	Five years.

Read letter dated the 17th instant

instant, from the Magistrate of Chingleput, requesting the permission of the Foujdaree Udalut to disburse increased rewards to the persons who were instrumental in effecting the apprehension of the prisoners in Cases Nos 18, 19 and 20 of 1858, on the ground that those were notorious robbers, and that in consequence of their apprehension, the peace and security of the district is likely to be restored.-

/Here enter F. M. No 1582 of 1858./

Under the powers vested in them by Section XXIII of Regulation IX of 1816, the Court of Foujdaree Udalut resolve to authorize the Magistrate to disburse, in addition to the rewards previously offered, the sum of Rupees 150 to the Head of Police of Sydapet, for meritorious service rendered on the occasion; Rupees 100 to the person or persons who were instrumental in arresting the Sirdar Aboonoauiew; and Rupees 25 on account of each of the other prisoners

prisoners convicted and sentenced, or held to security, the same being payable to the parties who effected their apprehension.-

Read Miscellaneous

Petition presented on the 14th Ultimo, by Gujjala Vencanna, Zillah Masulipatam.-

/Here enter F. M. P. No 103 of 1858./

1. This is a petition for a review of the order of this Court under date the 1st June 1858.-

2. The Court of Foujdaree Udalut see no reason to comply with the prayer of the petition, and accordingly refer the petitioner to the order passed by them on her former petition under date the 1st June 1858.-

Read Criminal Reports for the month of July 1858, from the Sessions Judge of Rajahmundry.-

/Here enter F. M. No 1585 of 1858./

No 64 Assault and Theft. 1. The regulation quoted in the sentence has reference to cases

of

of Housebreaking and Theft and is not applicable to this case. The Session Judge is requested to call for the record and ascertain whether the Criminal Court was competent to dispose of the case; the charge showing it to have been of the character of robbery by open violence.-

2. If the prisoner entered the house and took the prosecutor's chembos, the theft was complete, and the charge should not have been of attempt only. It is not stated how the entry was made; the Session Judge is requested to ascertain whether there was a breaking or not.-

No. 67. Attempt at Theft.

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

Read Petty Calendars of the Magistracy submitted by the Session Judge of Madura, for second quarter of 1858.-

(Here enter J. C. No. 1595 of 1858.)

Calendar I. No. 18. Embezzlement.

The charge in this case is unintelligible. The heading is "embezzlement" but the prisoner is sentenced under a regulation which has only reference to "abuses of authority by police officers." The prisoner not being a police officer the sentence under this regulation is clearly illegal and must be cancelled.-

No. 26. Misdemeanor.

2. The Court would point out to the Magistrate that under Section XIII Regulation III of 1857, the Criminial Judge is alone competent to take cognizance of cases where parties forcibly rescue cattle that have been seized under the provisions of the Act above quoted. The Court therefore directs that the sentence in this case be cancelled and the fines returned. Looking however to the length of time that has elapsed since the case was disposed of, the Court do not consider it necessary that it should now be committed to the Criminal Court.-

This

3. This case should not have been entered in this Calendar.-

4. The sentence in this case must be cancelled. The facts alleged against the prisoner in the charge are not of such a description as would justify the requirement of security.-

Calendar III
No. 3. Crimping.

No. 4
Suspicious character.

Read Miscellaneous -

Petition presented on the 22d July last, by S. N. Cuntaraya Chetty, Pleader on behalf of Muddapaty Achanmah and 3 others, the 3d, 4th, 5th, and 6th Prisoners in Case No. 44 of 1858 on the file of the Session Court of Masulipatam, praying for the reversal of the sentence passed upon them in the case in question.

/Here enter F. Mo. P. No. 112 of 1858./

Before disposing of this petition, the Court of Foujdaree Udalut resolve to call on the Session Judge to state whether, as alleged by the petitioners, any

Messrs. Cooper and Baynes.

any defence was made and witnesses thereto cited by them; and if so, on what they were not summoned and examined.-

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

Read Calendar of Case No. 55 of 1858 dated 22d July 1858, from the Acting Session Judge of Madura.-

/Here enter F. Mo. No. 1136 of 1858./

Read also return dated 11th August 1858, from the Acting Session Judge of Madura, to the precept of the Foujdaree Udalut under date the 28th July 1858, directing that an English translation of the whole record in calendar case No. 55 of 1858 be submitted for their consideration.-

/Here enter F. Mo. No. 1566 of 1858./

Mr Strange

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of

of the case in evidence before them,
being of opinion that the Prisoners,

1st Paulpandy
2d Moorgandy
3d Ramoo Tavee
4th Chinnasawmy
5th Sivanoo
6th Moonien,
and
7th Eliapermal.

are not convicted on presumptive proof, or on the evidence of credible witnesses, or on their own confessions of the crime charged, do acquit them thereof, and direct that they be set at liberty.-

The Court of Foujdaree Adalut observe that the neglect of duty of the Mettoo Peon (the 4th witness) as compiled with his evident falsehood in saying that he received no information of the robbery from any of the prosecutors, should be brought to the notice of the Magistrate in order that it may be judged whether he is fit for his post.-

Precept returnable in x days.

C. H. Cameron

Ex. Sea.

F. M.

Tuesday 24th August 1858.

At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esquire,
J. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read Calendar of Case No. 21 of 1858, submitted by the Session Judge of Mangalore.

(Here enter F. M. No. 1589 of 1858.)

1. The Foujdaree Adalut observe that in the verdict column should have been stated of what the jurors convicted the 1st and 2d prisoners. Upon the face of this calendar they would appear to have found them guilty of murder.

2. The Court would also point out to the Session Judge that he should have obtained from the jurors a clear and distinct finding. The 1st juror does not declare of what he convicts the prisoners, only saying "that

"that in striking the deceased they did not intend to kill him and they are therefore liable to imprisonment;"
while the 2d. merely reciting the facts of the case, pronounces no opinion as to the nature of the prisoners' guilt.

The Session Judge himself has convicted the 1st. and 2d. prisoners of the "common assault", tho' he considers the evidence to leave no doubt that the injuries inflicted were the cause of death.

The Acting Session Judge of Cuddalore is requested to report whether the order contained in the Proceedings of the Tondarre Adalut dated the 26th. April last, removing the interdiction of the Assistant Magistrate of South Arcot in the matter of the distribution of Prasadam in the Pagoda of Trivendipooram, has been carried out.

Precpt returnable within V days from and after its receipt.

Read

Read letter dated the 6th. August 1858, from the Magistrate of of Kurnool, suggesting the erection of two buildings, one for the confinement of lunatics, and the other for the safe custody of persons under trial before the Magistrate.

/Here enter T. No. No. 1529 of 1858./

1. The Judges observe that it falls within the province of the Inspector of Prisons to provide suitable accommodation for Insane persons, whom it has always been customary to confine in the Zillah Jail.

2. As, on the erection of the new Courthouse and Jail at Nundial, that at Kurnool will be available for the confinement of persons under trial by the Magistrate, it is desirable that no unnecessary expense should be incurred in constructing a new building for such purpose; but, if

one

one be indispensably required, the Judges authorize the Magistrate to call upon the District Engineer to prepare an estimate for building a temporary place of confinement for persons of the description referred to.-

C. S. Chamier

Ex. Secy.

F. 86.

Wednesday 25th August 1858.

At a Court of the Foujdaree Adalut.

Present

The Honble W. A. Morehead Esqre. Chief Judge

G. S. Cooper Esquire,
J. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read Criminal Reports for the month of July 1858, from the Sessions Judge of Calicut.-

(Here enter F. 86. No. 1601 of 1858.)

Subordinate Judge No. 151. "Cattle Maiming."

The Court have ruled that irons cannot be awarded under Section VIII Regulation XIII of 1832; that portion of the sentence must therefore be cancelled.-

Read Criminal Reports for the month of July 1858, submitted by the Sessions Judge of Nellore.-

(Here enter F. 86. No. 1609 of 1858.)

Nos 129 & 130. Escape accidental wounding.

With reference to these cases the Court would observe that in the

the charge, upon which the prisoner appears to have been originally apprehended, alleged no criminal act against him; the wounding is stated to have been accidental, and it is not averred that it was caused either by the prisoner's carelessness or negligence; under such circumstances the case should have been dismissed by the Head of Police. Looking to the nature of the charge the Court consider the prisoner should not have been kept in confinement, and the Court therefore resolve to annul the sentence on account of the escape in Nº 129.-

Read letter dated the 7th instant from the Acting Sessions Judge of Madura, bringing to the notice of the Foujdaree Adalut, under clause first, Section XXXIX, act VII of 1843, the apparent inefficiency of the Police Ameen of Cannady, and recommending

recommending his dismissal from office.-

(Here enter F. M. Nº 1603 of 1858.)

As it does not appear that the Acting Sessions Judge has sent a copy of the above report to the magistrate, as required by clause second of the section quoted, the Judges resolve to direct him to take this step now.-

Read Miscellaneous Petition presented on the 23d August 1858, by Syyaloo Naiken and Gerria Counden, of Zillah Coimbatore.-

(Here enter F. M. P. Nº 133 of 1858.)

Messrs Cooper and Strange.

This is an appeal from the order of the Sessions Judge under date the 7th July 1858, confirming the sentence passed upon them by the Principal Sudder Ameen of Coimbatore in Criminal Case Nº 142 of 1858.-

Before passing a

final

25th August 1858.

final order on the petition, the Court of Foujdaree Udalut resolve to direct the Sessions Judge to instruct the Principal Sudder Ameen to suspend execution of the sentence in question, pending the decision of this Court in the matter.-

Ext'd Ell

C. Chamier

JVC

Thursday 26th August 1858

At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre
T. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges

Read Miscellaneous Petitions presented on the 5th ultimo, and 9th instant, by J. N. Bramson Esqre, Pleader on behalf of Sunjeevarayen and Sreene-vasa Pillay, Zillah Cuddalore.-

/Here enter F. M. P. Nos 102 and 119 of 1858/

Petitioners seek for a review of the sentence passed by this Court in case No 41 of 1858 on the file of the Sessions Court of Cuddalore.-

Messrs Hooper and Baynes

The Court of Foujdaree Udalut see no ground to accede to the Petitioners' applications, which are accordingly rejected.-

2.

Read Miscellaneous Petition presented on the 6th May last, by S. Seroomalacharry, Pleader on behalf of Soobboo, Zillah Mangalore.-

/Here enter F. M. P. No 68 of 1858/

Read Miscellaneous Petition presented on the above date, by the same pleader, on behalf of Eswara, Zillah Mangalore.-

/Here enter F. M. P. No 70 of 1858/

Petitioners

26th August 1858
Mess.rs Hooper
and Baynes

1 Petitioners appeal from the orders of the Sessions Judge under date the 2d. February 1858 — confirmatory of those passed by the Acting Head Assistant Magistrate directing the Petitioners respectively to furnish security for the amount of 50 Rupees in two sureties of 25 Rupees each to keep the peace for a period of one year.—

2 The Court of Sudder Adalut are of opinion that although it is competent to a Magistrate in a case before him, to require security to keep the peace, from a party against whom an actual breach of the peace may not have been proved, he can only do so after personal investigation, and not, as would appear in the present instance, on the report of a police officer, and they therefore resolve to direct that the securities be discharged.—

Ex. Reid.

F. Ue.

Friday
27th August 1858

At a court of the Foujdaree Udalut

Present

G. S. Hooper Esqre
F. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges

Read letter dated 10th August 1858, from the Acting Sessions Judge of Madura, submitting for the final judgment of the Foujdaree Udalut the record in case No. 52 of 1858 of the Calendar of the Session Court.—

/Here enter F. Ue. No. 1539 of 1858/

Mess.rs Strange and Baynes

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

1st Coola Sailathy Rowten

and

11th Cattiseunnaul

is sufficient to convict them, the 1st prisoner of robbery by open violence attended with murder, and the 11th of being accessary after the fact, do convict them thereof, and in conformity with the provisions of clause 2d, Section IV, Regulation

XV of 1803 sentence the prisoner

1st Coola Saibathy Rowten

to be transported to such place or places beyond sea as the Governor in council shall appoint, there to be imprisoned and kept to hard labor in the — public roads or other public works, for and during the period of his natural life; the prisoner

11th Cattisunnaul

to be imprisoned and kept to labor suitable to her sex for and during the period of (1) one year

The Court of Fouzdaree Udalut being moreover of opinion that the prisoners

2d Curpen son of Caryan

4th Rowten son of Arasa Coodombee

6th Chinckay Vencatasawmy Naicken

7th Caroonun son of Vanakaran

9th Rutnagherry son of Malarolondan

12th Rutnagherry son of Tunnicutty

and

13th Shaick Mahomed Rowten

are not convicted on presumptive proof, or on the evidence of credible witnesses, or on their own confession of the crime charged, do acquit them thereof, and direct that they be unconditionally released —

The

The Court of Fouzdaree Udalut observe that the above letter of reference of the — Acting Session Judge is in great part made up of abstracts of the evidence which was needless since the statements of the witnesses are placed before them in extenso in the repeated examinations held of them before the police and the criminal and session courts. The use of a letter of reference is to marshal the facts appearing against each of the accused, and to canvass the merits of the evidence, but in these particulars the Acting Session Judge has afforded but little assistance. —

2. The Court request the Acting Session Judge will bring to the notice of the Magistrate the dilatory proceedings of the police in this case. — They appear to have been inactive from the night of the 9th until the 12th, and in the mean while allowed the body of the deceased to be — buried without holding inquest over it. No evidence was elicited by them, the informant being the 2d witness, not one of their body; this information was not taken down or followed up; and the Duffadar, according to the

examination

examination held of him, appears to have been remarkably supine.— 27th August 1858

Read letter dated 17th August 1858, from the Acting Session Judge of Madura, submitting for the final judgment of the Foujdaree Udalut the record in case No. 65 of 1858 of the Calendar of the Session Court.—

/Here enter F. R. No. 1598 of 1858/

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner Mr. Baynes

Lutchmuny Naick

is not convicted on presumptive proof, or on the evidence of credible witnesses, or on his own confession, of the crime charged, do acquit him thereof, and direct that he be set at liberty.—

Read letter dated 17th August 1858, from the Acting Session Judge of Madura, submitting for the final judgment of the Foujdaree Udalut the record in case No. 66 of 1858 of the Calendar of the Session Court.—

/Here enter F. R. No. 1599 of 1858/

The Court of Foujdaree Udalut, on Mr. Baynes.

a

F. R.

27th August 1858. a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner,

Coadiappa Naick

is not convicted on presumptive proof, or on the evidence of credible witnesses, or on his own confession, of the crime charged, do acquit him thereof, and direct that he be set at liberty.—

Ex. Bell.

C. S. Clemen

Saturday,
28th August 1858.

F. Ud.

At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre
T. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges

Read calendar of case No. 15 of 1858 on the file of the Session Court of Tellicherry.—

/ Here enter F. Ud. No. 1634 of 1858 /

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.—

1 Pollapaddy Tondan
2 Erratta Amboo.

15 / five years.

Read letter from the Session Judge of Cuddapah submitting letter from Subordinate Criminal Judge dated 14th August 1858.—

/ Here enter F. Ud. No. 1616 of 1858 /

The Subordinate Criminal Judge of Cuddapah requests the instructions of the Court as to whether, in the case of a party being committed to him for trial on two separate charges of "housebreaking" he is to use his own discretion as

to

as to the amount of punishment to be awarded without reference to the limit of two years which he is authorized to award in a single case, or whether the sentences in the aggregate must not be within such limit of two years.—

28th August 1858

2. The Court are surprised that the Subordinate Criminal Judge should have found it necessary to make a reference upon a point with which former rulings and constant practice should have made him perfectly familiar, and upon which, if he had any doubt, he might easily have satisfied himself by a reference to the records of his own Court.—

3 The exposition of the law and practice contained in the letter of the Sessions Judge being perfectly correct and complete, he is requested to furnish a copy to the Subordinate Criminal Judge for his instruction and guidance.—

2

Ed Hall.

C S Chamier

F. 16

Monday
30th August 1858

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esqure
J. L. Strange Esqure — Puisne Judges
C. R. Baynes Esqure

Read Calendar in Case No. 45 of 1858, from the Sessions Judge of Calicut.

(Here enter F. 16. No. 1639 of 1858)

1 The Court of Foujdaree Adalut are of opinion that the Sessions Judge is wrong in his construction of the law. By section 1, Act XVII of 1854, the offence of fraudulently secreting a letter renders the offender liable to the punishment provided in that section without reference to the particular object he may have had in so secreting the letter.

2 The case is clearly cognizable by the Sessions Judge alone, and the Court accordingly direct him to call for it again and proceed to dispose thereof himself.

Read

Read Calendar in Case No. 10 of 1858 from the Sessions Judge of Guntoor.

(Here enter F. C. No. 1612 of 1858.)

The Court of Foujdaree Udalut are of opinion that upon the showing of the Sessions Judge the sentence in this case is unnecessarily severe, and would call his attention thereto, directing that unless upon re-consideration he feel able to reduce it to 3 months' imprisonment without irons, he will forward a translate of the evidence taken in the case. Should he concur in the reduction he is authorized to issue warrant accordingly.

Ordered that Extract from these Proceedings be sent to the Sessions Judge of Guntoor by precept returnable within five days.

Read letter dated the 17th instant, from the Sessions Judge of Nundial.

(Here enter F. C. No. 1624 of 1858)

The Sessions Judge states that, on the strength of an observation recorded by the late officiating Agent, declaring his belief that certain documents put in by the Defendant

Defendant in a civil suit were forged, the Plaintiff has formally charged the Defendant with forgery; and the Sessions Judge requests the instructions of the Foujdaree Udalut as to the course he should pursue in the matter.

2 The Court of Foujdaree Udalut observe that the newly created Zillah Court of Nundial has, for all such intents and purposes as those referred to in the above communication, come into the place of the late Agent's Court, and the Sessions Judge may, therefore, take view of all the records of that Court, and proceed thereon as though they were those of his own Court. The Sessions Judge should accordingly listen to the information given him in the present instance, and act thereupon as he may think necessary and expedient. To direct a prosecution or not lies entirely in the Sessions Judge's discretion.

Read Calendar case No. 5 of 1858 from the Sessions Judge of Nundial.

(Here enter F. C. No. 1631 of 1858)

The Sessions Judge having convicted the prisoner of "Robbery" for which the law

law prescribes a punishment of 14 years' imprisonment under Clause third, Section IV, Regulation XV of 1803, should have passed sentence accordingly, recommending mitigation, if he deemed proper, under Regulation I of 1825. The Foujdaree Udalut direct that the sentence be amended; and taking the recommendation to have been made, they authorize the Sessions Judge to issue warrant accordingly.

Read Miscellaneous Petition presented on the 12th Ultimo, by I. W. Branson Esquire, Pleader on behalf of Sevasengoo Paven, Zillah Tinnevelly.

(Here enter F. M. P. No. 109 of 1858)

Major Hooper and Strange

1 This is an application for a reconsideration of the sentence passed by this Court in case No. 5 of 1858 on the file of the Sessions Court of Tinnevelly.

2 The Court of Foujdaree Udalut see no grounds for questioning the correctness of the sentence passed by them, in the case in question, and therefore reject this petition.

Read Miscellaneous Petition presented on the 28th Ultimo, by Mooktear Vakeel Vellatchy of Zillah Madura.

(Here enter F. M. P. No. 116 of 1858)

Major Hooper, and Strange.

This is an application for the release of the 1st and 2d Prisoners in case No. 6 of 1856 on the file of the Sessions Court of Madura, who were sentenced to 8 years' imprisonment with hard labour in irons.

2 The Court of Foujdaree Udalut seeing no reason to interfere with the sentence in question, resolve to reject the petition.

Read Calendar of Case No. 52 of 1858 from the Sessions Judge of Chittoor.

(Here enter F. M. No. 1627 of 1858)

The Court of Foujdaree Udalut resolve to call upon the Sessions Judge of Chittoor for a translation of the deposition given by the 3d witness in this case.-

Precept returnable within two days.

Read Miscellaneous Petition presented on the 28th Ultimo, by R. Seroomul Row, Pleader on behalf of Seroovengadum of Zillah Trichinopoly.

(Here enter F. M. P. No. 115 of 1858)

Major Hooper, and Strange

1 This is an appeal from the sentence passed by the Sessions Judge in Case No. 12 of 1858.

2 Before passing a final order on this petition, the Court of Foujdaree Udalut resolve to direct the Sessions Judge to send an English translation

translation of the record in the case in question, and suspend execution of the sentence in the mean while.

Receipt returnable within eight days.

Read again Miscellaneous Petition presented on the 15th June last, by A. Soobbiah, Pleader on behalf of Coombalingum Moodaliar, Zillah Combaconum.

(Here enter F. M. P. No. 90 of 1858)

Read also return dated the 21st Ultimo, from the Sessions Judge, to the Receipt of the Fouzdaree Udalut under date the 12 idem, directing him to communicate to the Court the defence made by the Petitioner, and such facts as may have served to show that the persons assembled together with the petitioner were brought together for an unlawful purpose.

(Here enter F. M. No. 1422 of 1858)

On view of the explanation contained in the foregoing return, the Court are satisfied that the Joint Magistrate has been warranted in making the requisition of security complained of by petitioner. His petition is therefore rejected.

Majors Hooper and Strange

30th August 1858.

Read letter under date the 13th August 1858, from the Agent to the Governor at Vizagapatam, forwarding English translation of the Record of case No. 7 of 1858 on the Calendar of the Agent's Court for the final judgment of the Court of Fouzdaree Udalut.

(Here enter F. M. No. 1428 of 1858)

The Court of Fouzdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the personers,

1st Mittannah Ranjennah.

and,

2d D. Veerabhadroodoo

is sufficient to convict them, the 1st prisoner of Murder, and the 2d of aiding and abetting in the same, do convict them severally thereof, and in conformity with the provisions of Section X. Regulation VIII of 1802, and Clause Second, Section IV. Regulation I of 1825 sentence the prisoner,

1st Mittannah Ranjennah

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

2d Mittannah Veerabhadroodoo

to be imprisoned and kept to hard labour in irons, on the

public

public roads or other public works for and during the period of (7) Seven years.

Read letter under date the 16th August 1858, from the Session Judge of Cumbaconum, forwarding English translation of Record of case No 33 of 1858 on the calendar of the Session Court for the final judgment of the Court of Foujdaree Udalut.

(Here enter F. U. No 1605 of 1858)

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

Vayloo Padyachy

is sufficient to convict him of the crime of Gang Robbery, and receiving stolen property knowing it to be stolen, do convict him thereof, and under the provisions of Clause third, Section IV, Regulation XV of 1803 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 (14) fourteen years.

Read letter under date the 31st July

July 1858, from the Sessions Judge of Nellore, forwarding English translation of the Record of cases Nos 30, 31, 32, 33, 34, 35, and 36 of 1858 on the Calendar of the Sessions Court for the final judgment of the Court of Foujdaree Udalut.

(Here enter F. U. No 1606 of 1858)

Case No 30.

Mr Baynes

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner

Putchakayala Rovanareddy

is not convicted on presumptive proof, or on the evidence of credible witnesses, or on his own confession, of the crime charged, do acquit him thereof, and direct that he be set at liberty.

Case No 31.

Mr Baynes.

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner,

Yetekalava Hussain

is not convicted on presumptive proof or on the evidence of credible witnesses, or on his own confession, of the crime charged, do acquit him thereof, and direct that he be set at liberty.

Case No 32

Mr Baynes.

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the

Case

case in evidence before them, being of opinion that the prisoner

Ambata Vengamma

is not convicted on presumptive proof or on the evidence of credible witnesses, or on his own confession, of the crime charged, do acquit him thereof, and direct that he be set at liberty.

Case No 33.

The Court of Foujdaree Udalut,

Mr Baynes

on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner

Irava Molagonja,

is not convicted on presumptive proof or on the evidence of credible witnesses, or on his own confession of the crime charged, do acquit him thereof, and direct that he be set at liberty.

Case No 34

The Court of Foujdaree Udalut,

Mr Baynes

on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner

Irava Ramasawmy

is not convicted on presumptive proof or on the evidence of credible witnesses, or on his own confession, of the crime charged, do acquit him thereof, and

direct that he be set at liberty.

Case No 35

The Court of Foujdaree Udalut,

Mr Baynes.

on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner,

Vuppa Narasadoo

is not convicted on presumptive proof, or on the evidence of Credible witnesses, or on his own confession of the crime charged, do acquit him thereof, and direct that he be set at liberty.

Case No 36

The Court of Foujdaree Udalut,

Mr Baynes

on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner,

Vuppa Doparadu

is not convicted on presumptive proof, or on the evidence of Credible witnesses, or on his own confession of the crime charged, do acquit him thereof, and direct that he be set at liberty.

Ex Edk.

C. S. Clarke

F. C.

Tuesday
31st August 1858. } At a Court of the Foydaree Adalut.

Present

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read letter from the Agent to the Governor in Gunjam dated 17th August, submitting an appeal from the Assistant Agent against the proceedings of the Acting Agent, reversing the sentence of the Assistant Agent in Petty Case No. 4 of 1858.

(Here enter F. C. No. 1642 of 1858)

The Court decline to enter into the merits of this case. The Court request the Acting Agent to point out to the Assistant Agent that he has not, as he would appear to suppose, a right of appeal to the Foujdaree Adalut in cases in which his decisions may be over-ruled by his superior. The proceedings of that Officer come before them in due course, and it is for them to make such remarks on them as may appear proper or necessary.

C. S. Davies

Ex Edl.

F. U.

Wednesday 1st. September 1858.

At a Court of the Foujdaree Udalut.

Present

G. S. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges

Read petty Calendars of the Magistracy for the 2nd. Quarter of 1858, submitted by the Sessions Judge of Tinnevelly.

/ Here enter F. R. No. 1646 of 1858 /

Calendar II No. 14 Accidental Homicide /

The Court find it difficult to understand the reasons assigned by the Joint Magistrate for dismissing this case. The Session Judge is requested to explain to the Joint Magistrate, the distinction between accidental and Culpable Homicide with which, judging from the heading, charge and remarks of the Joint Magistrate in this case, that officer must be very imperfectly acquainted. Because the intention to kill was not established, the Joint Magistrate appears to think there was no criminality in the acts of the parties by which the death of the deceased was caused, and that the killing in the eye of the law was accidental and consequently devoid of Criminality unless it was of the description of cases provided for by Clause / 3d, Section IV. Regulation I of 1818.—

The

2 The Court resolve to direct the Magistrate to call for the record in this case and take the necessary steps for the committal of the parties on a charge of Manslaughter, should it appear that the death of the deceased was caused by their ill-treatment.

Read letter from the Acting Agent in Ganjam, dated 21st July 1858, forwarding correspondence with Assistant Agent.

/ Here enter F. R. No. 1459 of 1858 /

Read also returns to the precept of the Fouzdaree Adalut of the 5th August 1858.

/ Here enter F. R. No. 1623 of 1858 /

At the request of the Assistant Agent Captain Smith the Acting Agent to the Governor in Ganjam has forwarded copy of his proceedings held on review of Case No. 11 on the Criminal file of the Assistant Agent. In his letter, also forwarded, the Assistant Agent states that he is of opinion that the conclusion arrived at by the Acting Agent in this case is erroneous, and that he therefore desires to "appeal" to the Court of Fouzdaree Adalut against the proceedings of the Acting Agent reversing his sentence in the No. above mentioned. He also at the same time takes exception to the remarks of the Acting Agent as reflecting unjustly on his character as a public officer.

1.

In

1st September 1858.

2 In their proceedings on the Agent's letter of the 17th August the Court have already observed on the impropriety and irregularity of the Assistant Agent in calling in question the correctness of his superiors decisions, and they at the same time pointed out that no appeal against such decisions lies to this Court at the instance of the Subordinate officer whose sentences may have been thereby overruled. The Court therefore decline to enter into the merits of the case now brought to their notice, and it only remains for them to determine whether Captain Smith has just cause of complaint in the personal censure with which the Acting Agent considered it proper to accompany his proceedings reversing the sentence passed by the Assistant Agent.

3 Upon this point the Court would observe that in their opinion the latter sentence of para 7 should not have been penned as being capable of a construction which would not be warranted. The Court also think that para 10 might have been worded in a manner less calculated to give personal offence, the Court however consider that the Acting Agent in his letter of the 18th July has made most sufficient amends for those portions of his proceedings against which objection may be taken, and the Court therefore see no necessity for any further remark on the matter.

Ex. K. D.

F. C.

Thursday 2nd September 1858.

At a Court of the Fayidaree Adalut.

Present

G. S. Hooper Esquire
J. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read Calendar of Case No 43 of 1858 on the file of the Session Court of Nellore.-

(Here enter F. C. No 1653 of 1858.)

The prisoner in this case is charged with and convicted of Highway Robbery and sentenced to 14 years' imprisonment with hard labor in irons; but as no personal injury was inflicted, and this being the prisoner's first offence, the Session Judge recommends that the sentence be mitigated to 10 years.-

1.

The Court of Fayidaree Adalut are of opinion that 8 years' imprisonment would be sufficient punishment in this case, and authorize

2.

authorize the Sessions Judge to reduce his sentence accordingly.-

Read Calendar of Case

No. 46 of 1858 on the file of the Sessions Court of Salem.-

/Here enter F. Uc. No. 1655 of 1858./

As herein recommended, the Court of Fouzdaree Udalut resolve to authorize the Acting Sessions Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.- ~

Ex. Rall.

C. S. Ahamed

× Pillagan

Four years.

F. U.

Friday 3rd September 1858.

At a Court of the Fouzdaree Udalut.

Present

G. S. Hooper, Esquire.
T. L. Strange, Esquire.
C. R. Baynes, Esquire.
} Puisne Judges

Read letter dated 17th ultimo from the Acting Agent in Ganjam reporting the acquittal of a Prisoner in Case No. 20 of 1858.-

/Here enter F. U. No. 1658 of 1858./

The Court of Fouzdaree Udalut concur with the Acting Agent in the acquittal of the Prisoner in this case

Read letter dated 18th ultimo from the Acting Agent in Ganjam reporting the acquittal of a Prisoner in case No. 12 of 1858.-

/Here enter F. U. No. 1657 of 1858/

The Court of Fouzdaree Udalut concur with the Acting Agent in the acquittal of the Prisoner in this case.-

Read Criminal reports for the month of July 1858, submitted by the Sessions ~

Judge

Judge of Bellary.

/ Here enter F. C. No. 1661 of 1858 /

1 The Session Judge is requested to submit for the information of this Court a copy of his order granting the original sentence in this case. — No. 68. Assault with wounding

2 The Court have ruled that wives cannot be awarded under Section VIII Regulation XIII of 1832. That portion of the sentence must therefore be cancelled. Nos. 151 and 182 Cattle poisoning and attempt at Cattle killing

3 The original charge against the prisoner appears to have been of simple theft of property of the value of 8 annas, a petty case cognizable by the Magistracy, who should have therefore disposed of the case of escape also. No. 156. Escape

Precept returnable within III days from and after its receipt. —

Read Calendar of Case No. 49 of 1858 of the Session Court of Chittoor.

/ Here enter F. C. No. 1669 of 1858 /

1 The Court of Fouzdaree Udalut are of opinion that a sentence of eight years imprisonment with hard labor in irons will be adequate punishment for the offence of which the prisoners in this case have been convicted, and they resolve to call upon the Session Judge to reduce their sentence accordingly.

If

2 I shall be to concur with the Court in the propriety of the mitigated sentence now proposed, the Session Judge will be pleased to submit an English translation of the entire Record of the case for their consideration

Precept returnable within VIII days from and after its receipt. —

Read letter dated 20th August 1858 from the Session Judge of Calicut, submitting for the final judgment of the Fouzdaree Udalut, the record of Case No. 40 of 1858. —

/ Here enter F. C. No. 1647 of 1858 /

Messrs. Strange and Baynes.

The Court of Fouzdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner.

Peroumanan kodakotil Oniappen

is sufficient to convict him of the crime of culpable Homicide, do convict him thereof — and under the provisions of Clause Second Section XV Regulation VII of 1802, 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 six years. —

C. S. Chamier

Ed. D.

J. Ho.

Saturday 4th September 1858. At a Court of the Joujdaree Adalut

Present

G. S. Hooper Esquire
J. L. Strange Esquire — Sessions Judges
C. R. Baynes Esquire

Read Petty Calendars of the Magistracy for the 2d Quarter of 1858, submitted by the Session Judge of Tellicherry.-

(Here enter J. Ho. No. 1683 of 1858.)

1. It is requested that these Calendars be submitted in future at an earlier date.-

Calendar I No. 33 Embezzlement. 2. Cases punished by the Magistracy under the act quoted in this No., should not be entered in the Petty Calendars, but should be subject to the rules laid down by the Court with respect to cases taken cognizance of by the Magistracy under the extended powers. It is presumed that Mr. Sharpe has passed the highest

standard

standard of examination.-

3. Magistrates are not empowered by the "Cattle trespass act" to dispose of cases of this description, which must be committed to the Criminal Court.-

Calendar No. 40. Misdemeanor.

Read Calendar of Case No. 28 of 1858 on the file of the Session Court of Trichinopoly.-

/Here enter F. M. No. 1678 of 1858./

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.-S

1. Nulla Mottoosamy- 7 years.

Ex. Cal.

C. Clarke

F. M.

Monday. 6th September 1858.

At a Court of the Foujdaree Udalut.

Present

G. S. Hooper Esquire,
J. Lo. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read again Miscellaneous Petition presented on the 26th April 1858, by John Miller Esquire, Pleader on behalf of Nullatomby Nynan of Zillah Cuddalore.-

/Here enter F. M. P. No. 63 of 1858./

Read also return dated 9th June 1858, from the Acting Session Judge of Cuddalore, to the precept of the Foujdaree Udalut under date the 1st idem, calling on him to report whether Nullatomby Nynan, who was required by the Head Assistant Magistrate of South Arcot to furnish security for his good behaviour, named witnesses, and if so, whether they were

were examined, and if not, why not.-

/Here enter F. Mc. No. 1151 of 1858./

Mssrs. Strange and Baynes.

The Foujdaree Udalut being satisfied from the Session Judge's return that the Petitioner has no cause of complaint on the ground of witnesses cited by him not having been summoned and examined, see no reasons for interfering with the sentence passed in the case, and accordingly reject the Petition.-

Read again Miscellaneous Petition presented on the 18th March 1858, by V. Sadagopa Charry, Pleader on behalf of Ragava Charry of Zillah Cuddalore.-

/Here enter F. Mc. P. No. 46 of 1858./

Read also return dated 30th August 1858, from the Acting Session Judge of Cuddalore, to the precept of the Foujdaree Udalut under date the 21st idem, requiring a report whether the order of the Foujdaree Udalut dated 26th

26th April last, removing the interdiction of the Assistant Magistrate of South Arcot in the matter of the distribution of prasadam in the Pagoda at Tiruvendapooram, has been carried out.-

/Here enter F. Mc. No. 1672 of 1858./

Mssrs. Strange and Baynes.

The question in this case is whether the Magistracy have any authority to prescribe to the office holders in a Pagoda the course they should pursue in administering to the affairs of the Pagoda, within its walls. It is clear that they have none, and the prohibitory order of the Assistant Magistrate, which has been made subject of appeal to this Court, must be withdrawn.-

2. The Court think the Magistrate has acted very wrongly in abstaining from carrying out the instructions issued to him, and without giving to this Court any

any intimation of the course
taken by him; and they direct
that he do now conform to those
instructions, and duly report his
having done so.-

Precept returnable within
VII days from and after its receipt.

Read Miscellaneous
Petition presented on the 9th August
1858, by J. D. Mayne Esquire, Pleader
on behalf of Chullah Lutchmiah
and others, of Zillah Nellore.-

/Here enter F. Mc. P. No 122 of 1858/

1. This is an applica- Messrs Strange and Baynes.
tion for a reconsideration of the
order of this Court dated the
14th April last, upon Foujdaree
Miscellaneous Petition No 55 of 1858.

2. The Court of Fouj-
daree Adalut resolve to direct
the Sessions Judge of Nellore to
submit an English translation
of the record in Case No 5 of 1858
on the file of the Sessions Court,

and

and in the mean while to sus-
pend execution of the sentence
passed in the case.-

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

C. Chamier

E. Dell.

F. No.

Tuesday 7th September 1858.

At a Court of the Foujdaree Adalut

Present.

G. S. Hooper Esquire,
J. C. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges

Read letter dated 26th ult. from August 1858, from the Session Judge of Nellore, submitting for the opinion of the Judges the question whether, upon the discharge of an accused party by the Head of Police, it is competent to the Magistrate, if he should consider him to have been improperly released, to order the Head of Police to commit him for trial.

/Here enter F. No. No. 1643 of 1858./

The Judges are of opinion that there is no objection to the adoption by the Magistrate of the course referred to; and that if he think there is evidence of a crime against

any individual, he is competent to direct a Subordinate officer, who has made the investigation, to commit thereon, although the officer himself, if left to the exercise of his own judgment, would not do so. vs

Ex Reg.

C. S. Cranmer

F. No.

Wednesday 8th September 1858.

At a Court of the Foujdaree Adalut

Present.

G. S. Hooper Esquire,
T. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges

Read again Calendar of Case No. 52 of 1858, from the Session Judge of Chittoor.

/Here enter F. No. No. 1627 of 1858./

Read also return dated 1st instant, from the Session Judge of Chittoor, to the precept of the Foujdaree Adalut under date the 30th ultimo, calling for a translation of the deposition given by the 5th witness in Calendar No. 52 of 1858.

/Here enter F. No. No. 1681 of 1858./

1. The Court of Foujdaree Adalut observe that the only circumstance serving to show that a robbery by open violence was intended is the number of which the party to whom the intent is ascribed consisted.

This

2. This they are of opinion may well have been exaggerated, seeing that twentyfive men bent on such a crime would not have fled at the first alarm, and on the approach of a few persons. The said party had no torches, and no weapons were seen with them, and no overt act was committed by them beyond entering an open verandah. Even if there had been such a gang and as they had designed robbery by open violence, the early capture of the prisoner before any violence was committed in prosecution of such design would have subjected him to no higher penalty than that prescribed by Clause 4th, Section IV, Regulation XV of 1803.

3. And as no more has been established than that the prisoner came with others to commit a theft in the prosecutor's house, the Court of Foujdaree Adalut resolve to set aside the sentence passed on him, and to adjudge him to undergo one year's imprisonment

8th September 1858.

imprisonment with hard labor in irons.

Precpt returnable within V days.

Read Calendar of Case No. 46 of 1858, on the file of the Session Court of Calicut.

/Here enter F. Mo. No. 1655 of 1858./

The Court of Foujdaree Adalut consider the Session Judge to have erred in not proceeding to the trial of this case, which was most properly committed by the Subordinate Judge, as no punishment in the power of the Subordinate Court would be adequate to the prisoner's guilt, if convicted.

Ex Exd

C. S. Clarke

J. 86.

Thursday 9th September 1858.

At a Court of the Fouzdaree Adalut.

Present

W. S. Hooper Esquire. — J. L. Strange Esquire. — C. R. Baynes Esquire. — Puisne Judges.

Read letter dated 2d September 1858, from the Sessions Judge of Trichinopoly, submitting, for the final judgment of the Fouzdaree Adalut, the record of Case No. 25 of 1858 on the Calendar of the Session Court.—

/Here enter J. C. No. 1695 of 1858./

Mr Hooper

The Court of Fouzdaree Adalut, on a deliberate consideration of all the circumstances of the case as evidence before them, being of opinion that the proof against the prisoner, Chackalingum Pillay

Culpable Homicide

is sufficient to convict him of the offence charged, do convict him thereof, and sentence him to be transported to such place or places beyond

beyond sea as the Governor in Council shall appoint, there to be imprisoned, and kept to hard labor on the public roads or other public works, for and during the period of his natural life. S.

Ex Dell.

C. Shamier

Friday 10th September 1858

F. No.

At a Court of the Tanjadore Adalut

Present

G. T. Cooper Esqre
T. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges.

Read letter from the Sessions Judge of Madura dated 31st August 1858 Submitting letter from the Magistrate of the District—

/Here enter F. No. 1690 of 1858./

Under the explanation afforded by the Magistrate, the Court resolve to allow the sentences in Nos 18 and 26 of the petty Calendars to stand.

Read Calendar of Cases No 78 / 1858 on the file of the Sessions Court of Bellary.

/Here enter F. No. 1693 of 1858./

1. As therein recommended, the Court of Tanjadore Adalut, resolve to authorize the Sessions Judge, to issue his Warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him

× Boya Mullegunda — Two Years

him in the said Cadet. in

Do 18 Do. C S Chamier

10th September 1858.

F. No.

Saturday 11th September 1858

At a Court of the Toungdaree Dedalut.

Present-

G. S. Hooper Esquire
J. Lo. Strange Esquire } Puisne Judges
C. R. Baynes Esquire

Read Calendar of Case No. 64 of 1858 on the file of the Session Court of Bellary.

Here enter F. No. No 1696 of 1858/

1. Upon the Session Judge's own showing, the sentence passed in this Case appears to the Court of Toungdaree Dedalut to be unnecessarily severe- The conduct of the prisoners in arming themselves with swords to resist the overpowering force brought against them by the rival party is of course highly reprehensible, and the use of such a weapon by the 1st justly subjects him to heavy penal consequences, but the circumstances do not appear to support an "intent to kill;" and a sentence of three years' imprisonment would in the opinion of the Judges, be sufficient in the case of the 1st Prisoner, and one of three months in that of the 2d who appears to have accompanied his father, armed at his time, but to have attempted no violence,

and

11th September 1858

and to have made no resistance to capture.

2. In the event of the Session Judge, upon consideration of these remarks, thinking proper to reduce the sentence, he is authorized to issue warrant accordingly, or otherwise, he will be pleased to submit a translate of the evidence taken before him in the Case, for the consideration of the Zoujdaree Adalut.

Precept returnable in VIII days from and after its receipt.

Read Calendar of Cases Nos 20 and 21 of 1858 on the file of the Session Court of Honore.

/Here enter J. Mc. No 1701 of 1858./

As herein recommended, the Court of Zoujdaree Adalut resolve to authorize the Session Judge, to issue his warrant for the imprison- ment of the prisoners for the period specified in the margin in mitigation of the sentence passed upon them in Case No 20.

Exempt from Flogging: 1. Trocha alias Trochapa Hegunday; 2 Ganapa and; 3. Donna Ganapa

Flogging: 3 Ettita; 4 Ganesha; 5 Munja; 6 Govindah; 7 Devadigar Trathan

Read Miscellaneous Petition received on the 7th ultimo through the Session Judge of Salem, on behalf of Carryen of that Zillah.

/Here enter J. Mc. P. No 1170 of 1858/

This

11th September 1858

Mess^rs Hooper Strange and Baynes

1. This is an appeal from the Sentence of the Session Judge in Case No 27 of 1858, wherein the Petitioner is 2d Prisoner.

2. The Court of Zoujdaree Adalut seeing no reason to question the propriety of the Sen- tence appealed against, resolve to reject the petition.

Read Miscellaneous Petition received on the 7th ultimo, through the Session Judge of Salem, on behalf of Ramen of that Zillah.

/Here enter J. Mc. P. No 118 of 1858/

Mess^rs Hooper Strange and Baynes

1. This is an appeal from the Sentence of the Session Judge in Case No 28 of 1858, in which the Petitioner is 2d Prisoner.

2. The Zoujdaree Adalut see no rea- reason to disturb the Sentence in question, and ac- cordingly resolve to reject the Petition.

Read Miscellaneous Petition presented on the 9th ultimo, by Pitchay Goaroo Rub- Zillah Madura.

/Here enter J. Mc. P. No 1720 of 1858/

Mess^rs Hooper Strange and Baynes

Petitioner appeals from the Sen- 1. tence passed against him in Case No 57 of 1858 on the file of the Sessions Court of Madura.

2. The Court of Zoujdaree Adalut see no reason to interfere with the Sentence appealed against

against, and accordingly resolve to reject the petition.

Read Miscellaneous Petition received on the 12th ultimo through the Session Judge of Rajahmundry, on behalf of Veeramallooo Appa-mah of that Zillah.

/Here enter F. Mc. P. N. 125 of 1858./

1. Petitioner appeals from the sentence passed against him by the Session Judge in his Case No. 14 of 1858 in which he is the Prisoner. — Mr. Hooper Strange and Baynes

2. The Court of Foujdaree Adalut see no reason to doubt the propriety of the sentence appealed against, and accordingly resolve to reject the petition.

C. S. Chamier

Dr. R. D.

F. Mc.

Monday
13th September 1858 At a Court of the Foujdaree Adalut

Present

G. S. Hooper Esqre. —
T. L. Strange Esqre. — } Puisne Judges
C. R. Baynes Esqre. —

Read Letter from the Session Judge of Chittoor dated August 16th 1858, submitting a copy of correspondence with the Magistrate with reference to the orders of the Foujdaree Adalut dated 16th July 1858.—

/Here enter No. 1558 of 1858/

By an extract from the proceedings of this Court of the 16th July the Session Judge of Chittoor was directed to take steps to recover from the prosecutor in Calendar No. 30 of 1856 of his criminal file certain property erroneously made over to him at the termination of the trial, and now claimed by the prisoners in the same case; or in case of its not being forthcoming to levy from him the value thereof.- From the correspondence now submitted it appears that the Magistrate, after having expressed to the Session Judge his

13th September 1858

his doubts that he had authority to take such course, and on receipt of communication from the Session Judge to the effect that the orders of the Foujdaree Udalut conveyed sufficient authority for the purpose, proceeded, on the prosecutor declining to give up the property in question, to direct the Tahsildar to seize and sell property to the value claimed by the prisoners.—

2. The Court have to observe that in proceeding to attach and sell the property of the prosecutor, the Magistrate has gone beyond the object of the instructions conveyed to him.— It was intended merely that he should recover the items of property taken from the prisoners and erroneously given to the prosecutor, or if these were not forthcoming that he should demand their value on behalf of the prisoners.— If compulsory measures were necessary to realize such value, this could only be by action brought by the prisoners.—

3. The Court therefore direct that the Magistrate do now proceed to correct, as far as they are legally remediable by him, the proceedings

13th September 1858 proceedings taken by him in this case.—

Exd Elld.

C.S. Clarke

F. U.

Wednesday
15th September 1858. At a Court of the Tanjore Zillah.

Present.

G. A. Cooper Esquire —
T. L. Strange Esquire. } Puisne Judges.
C. R Baynes Esquire

Read Calendar of case
No 45 of 1858 on the file of the Session
Court of Salem —
(Here Enter F U No 1709 of 1858.)
In the opinion of the Court
of Tanjore Zillah it is to be regretted
that the Prisoner was committed
for trial by the acting Subordinate
Judge. There was evidence to cast
strong suspicion upon him, but
clearly not to convict him, and he
should have been held to security
by the acting Subordinate Judge in
the prospect that further evidence
might appear against him. —

Read Miscellaneous Petition
received on the 12th August last, thro'
the

the Sessions Judge of Bellary on behalf of Boya Beemah of that Zillah.

(Here Enter F.M.C. No 124 of 1858)

This is an appeal against the Mrs C.R. Baynes. sentence passed in case No 60 of 1858 on the file of the Sessions Court of Bellary.

The Court of Tanjore see no reason for interfering with the sentence passed in this case. and accordingly reject the Petition.

Read calendar of case No 23 of 1858 on the file of the Sessions Court of Coimbatore.

(Here Enter F.R. No 1711 of 1858)

As far as can be judged from the abstract of the evidence, it would appear that a conviction might have been sustained by it, the prisoner has however been acquitted, tho' held to security for 3 years, the Court of Tanjore would not notice the case in order to remove an erroneous impression evidently

evidently entertained by the Sessions Judge that a party can under such circumstances be tried again for the same offence, should further evidence be procured. He has been acquitted by a competent court and cannot again be called in question for the same act. If the Principal Sudder ameen had released him or held him to security for appearance when required, he would have remained liable to trial.

Read letter dated 28th ultimo from the Agent to the Governor at Vizagapatam submitting the report on the trial of certain prisoners tried for House breaking and Theft.

(Here Enter F.R. No 1704 of 1858)

The Court of Tanjore would not see nothing upon which the 2d and 3d prisoners can be convicted of commission of the theft, they however convict them. and the 4th prisoner of being found in possession of part of the stolen property, knowing it to be such, and direct that the

15th September 1858.

the 2d and 3d be sentenced to 4 years' imprisonment with hard labor in irons, and the 4th to 6 months' imprisonment with labor suitable to her sex.-

Read Miscellaneous Petition presented on the 28th July last, by Coolly and Chinny of Gillah Salem.

(Here enter T.M.O. No 131 of 1858)

This is an appeal from the sentence passed against the 1st and 2d prisoners in case No 10 of 1858 on the file of the Session Court of Salem. Mr C.R. Baynes.

2. Before finally disposing of this petition, the Foujdaree Adalut resolve to direct the Session Judge to forward a translation of the evidence taken in the case.-

Precept returnable in V days.

Ex H.D.

C.S. Chamier

Thursday,
16th September 1858.

T.C.

At a Court of the Foujdaree Adalut.

Present

G.S. Hooker Esquire
T.L. Strange Esquire
C.R. Baynes Esquire
} Puisne Judges.

Read Miscellaneous Petition presented on the 12th August 1858, by Mr H.B. Saunders, Pleader on behalf of Moottoosawmy of Gillah Cuddalore.

(Here enter T.M.P. No 130 of 1858)

1. This is a petition for a reconsideration of the order passed by this Court in the petitioner's case on the 22d March last.

2. The Foujdaree Adalut have already had the case of these prisoners before them, and having upon this Petition again gone over the Judge's finding and evidence, as stated in the Calendar, can see no grounds for interfering with the sentence.

They

They observe that the allegation of the 1st prisoner that the only evidence adduced against him was the finding on his person of a pistol said to be the property of the Prosecutor, is a manifest falsehood, as he is distinctly stated to have been seized in the very act of committing the robbery.-

Read letter dated 11th September 1858, from the Sessions Judge of Chingleput, submitting for final Judgment of the Court of Foujdaree Adalut an English translation of the record of trial in case No 24 on the Calendar for 1858-

(Here Enter F R No 1732 of 1858)

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

Veeraragavun

is sufficient to convict him of the offence charged, do convict him thereof;

and

Mr C R Baynes.

and sentence him to be transported to such place or places beyond sea, as the Governor in Council shall appoint, there to be imprisoned, and kept to hard labor on the public roads or other public works, for and during the period of his natural life.- "

C. S. Chamier

E. Ball.

F. R.

Friday,
17th September 1858. At a Court of the Tanjore Adalut

Present.

G.S. Hooper Esqre
T. L. Strange Esqre
C R Baynes Esqre
} Puisne Judges

Read Calendar of case
No 27 of 1858 on the file of the Sessions
Court of Trichinopoly-

(Here Enter F R No 1733 of 1858)

The Court of Tanjore Adalut
are of opinion that such of the prison-
=ers beyond the 1st and 2d as confessed
before the Police to having taken
part in the robbery, should on part
of the stolen property being found with
them, have been convicted of the
robbery, equally with the 1st and 2d
prisoners, and not have been held
guilty of the 2d Count only of the charge-

Read again Calendar of
case No 5 of 1858 from the Sessions Judge
of Nundial-

(Here Enter F R No 1631 of 1858)

Read

17th September 1858

Read also letter dated 9th instant, from the Session Judge of Nundial, replying to the Extract from the Proceedings of the Tonjaore Adalut under date the 30th Ultimo, regarding the said case.-

(Here Enter F R No 1747 of 1858)

Under the explanation furnished in the above letter, the Court of Tonjaore Adalut direct that the Original Sentence be carried into effect.-

Ex Exd.

C S Clarke

Saturday,
18th September 1858.

T. U.

At a Court of the Tonjaore Adalut.-

Present.

G. A. Hooper Esquire
T. L Strange Esquire
C. R Baynes Esquire
} Puisne Judges.

Read Calendar of case No 47 of 1858 on the file of the Session Court of Nellore-

(Here Enter F R No 1744 of 1858)

As herein recommended, the Court of Tonjaore Adalut, resolve to authorize the Session Judge, to issue his warrant for the imprisonment of the Prisoners for the period specified in the margin, in mitigation of the Sentence passed upon them in the said case.-

1 Pudla Ramudu
2 Mekala Subbadu alias Yellamandadu
3 Do Narisigadu
4 Do Gungadu alias Ankadu and Lukshmigadu
(10) Ten years-

The Record of trial in referred case No 57 of 1858 on the file of the Session Court of Madura not having yet been received,

Ordered that the Acting Session Judge of Madura be required

18th September 1858.

required to submit the above record without further delay- ~~s~~

Exd Sd. C.S. Clarence

F. 26.

Monday 20th September 1858 } At a Court of the Foujdarry Udalut

Present

G. S. Hooper Esquire
T. Le. Strange Esquire } Puisne Judges
C. Re. Baynes Esquire

Read again Miscellaneous Petition presented on the 4th June 1858, by V. Sadagopa Charry Reader on behalf of Chinniah Tavern, zillah Combaconum

(Here Enter F. M. P. No 85 of 1858)

Read also return and Supplemental return dated 16th July and 10th August 1858 from the Sessions Judge of Combaconum, to the precept of the Foujdarry Udalut under date the 1st July last, requiring him to ascertain and inform the Court of the specific facts found against the 2nd defendant, Chinniah Tavern, which may have led to the requisition of the security from him.

(Here enter F. M. Nos 1394 & 1534 of 1858)

On view of the Explanation

Mr. G. S. Hooper
and
T. Le. Strange.

continued

Contained in the foregoing return the Court see no ground to interfere with the order complained of, and accordingly resolve to reject the petition.

Read Miscellaneous Petition presented on the 9th August 1858 by Madun Sahb and others of Zillah Cuddalore.

(Here enter F. M. P. No 123 of 1858)

Mr. J. G. Sharpe and J. L. Strange.

1. Petitioners complain of the treatment of the Tahsildar of Cullacoorchy in compelling them to sleep in the Tanah every night and thereby absent themselves from their houses, which have been in consequence robbed on different occasions notwithstanding they have been acquitted and released by the sentence of the Sessions Judge in Case No 32 of 1854 on the file of the Sessions Court of Cuddalore.

2 Petitioners should make known their complaint to the Magistrate and if dissatisfied with his proceedings appeal to the Sessions Judge.

Read return to the precept of the Foujdaree Udalut under date 3d September, calling upon the Sessions Judge of Bellary to

to forward Copy of his order quashing the sentence of the Subordinate Judge in No 68 of 1858.

(Here enter F. M. No 1728 of 1858)

With reference to the order of the Sessions Judge directing that the sentence of the Subordinate Judge in No 68 of his Criminal file should be quashed on account of informality in the proceedings, and that the parties should be re apprehended and put again upon their trial, the Court of Foujdaree Udalut have to observe, that the acquitted prisoners should not have been again put upon their trial, unless the Sessions Judge saw grounds for having them committed for the robbery originally charged. As respects the assault they had been discharged by a tribunal competent to decide on the matter, and they were not liable to be reapprehended on the ground of irregularity of the tribunal which disposed of their case.

Read Extract from the Minutes of Consultation under date 27th Ultimo, calling for Copy of the procredings in the Case of one Sheik Hamed, a Military pensioner, who was tried before the Sessions Court of Masulipatam in the year 1856 on a charge of murder, but convicted

of

of culpable homicide and sentenced to two years imprisonment.

(Here enter F. Dc. No 1684 of 1858)

Read also letter dated the 10th instant from the Session Judge of Masulipatam, forwarding Copy of the sentence in the case of one Ameer Jawn, and stating that he is the person referred to, being also called Shaik Hamed.

(Here enter F. Dc. No 1745 of 1858)

The Court of Foujdaree Udalut observe that, although the name of Ameer Jawn is alone entered in the Calendar, the general features of the case and the date of the sentence clearly show that the prisoner was the individual regarding whom the above reference is made; and as the Sessions Judge raises no question on the subject, but transmits the sentence as that passed upon Shaik Hamed alias Ameer Jawn, the Judges resolve to forward Copy of the sentence to the Government, as probably containing the information they require, though the name of Shaik Hamed only

only is mentioned in the Extract from the Minutes of Consultation under reply.

Read Miscellaneous Petition presented on the 18th instant by J. D. Mayne Esqr Pleader on behalf of Dejalingareddy Zillah Nellore.

(Here enter F. Dc. P. No 157 of 1858)

Read again Calendar of case No 26 of 1858 of the Sessions Court of Nellore

(Here enter F. Dc. No 1364 of 1858)

Mesrs. G. S. Harper and T. L. Strange

The Petitioner appeals against the sentence passed upon him in case No 26 of 1858 on the file of the Sessions Court of Nellore.

2 The Foujdaree Udalut on consideration of the allegations made in this petition, and upon reference to the Calendar submitted by the Sessions Judge find that the Petitioner, 5th Prisoner in the case, is not even stated to be convicted of any crime rendering him liable to the sentence passed, but on the contrary the only fact that could in any way connect him with the robbery Viz.t the finding in his house of a certain tumbal supposed to belong to the prosecutor, had been circumstantially disproved

20th September 1858

dispensed as admitted by the Judge. The
Sentence being thus manifestly illegal, the
Court resolve to annul the same and direct
the immediate release of the Prisoner.—

Prescribe 11 days.—

C.S. Chamier

Tuesday
21st September 1858.

F. C.

At a Court of the Foujdaree Udalut.

Present:

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read Calendar of case No. 73 of 1858
on the file of the Session Court of Bellary.
(Here enter F. A. No. 1760 of 1858)

As herein recommended, the Court
of Foujdaree Udalut resolve to authorize the Session
Judge to issue his warrant for the imprisonment
of the prisoner for the period specified in the
margin, in mitigation of the sentence passed
upon him in the said case.—

T. Bussuppah
Four years.

Read Calendar of case No. 56 of
1858 on the file of the Session Court of Cuddapah.
(Here enter F. A. No. 1739 of 1858)

The Court of Foujdaree Udalut
observe that the charge was erroneously headed
"Housebreaking and Theft," the act of the prisoner
having amounted only to simple theft.—

Read letter dated the 4th instant,
from the Magistrate of Masulipatam applying
for the offer of a pardon to any person, not being
a principal, concerned in stealing the monies
recently abstracted from the Office of the Nazir
of

of the Civil Court of Masulipatam, on condition of his making a full disclosure of the particulars of the offence.

/Here enter F.R. No. 1700 of 1858/

The Court of Foujdaree Adalut observe that the Magistrate appears to write in ignorance of the facts in this case: he terms the offence a "daring robbery", a "bold and impudent act"; and speaks of the "forcible entry of a public court of justice"; whereas, even allowing the money to have been taken by strangers, which is by no means clear, it was but a theft, to which the thief may be said to have been invited and tempted by the extraordinary facilities afforded for its commission, by those immediately in charge of the property. The Magistrate appears also to have overlooked the terms of section XX, Regulation VIII of 1802, as the case is certainly not one of the heinous nature therein described. For these reasons the Court are unable to comply with the Magistrate's recommendation.

Read letter dated 9th Instant, from the Agent to the Governor at Vizagapatam, submitting report of a case No. 11 of 1858 of House breaking tried before the Agent, for the final orders of the higher Court.

/Here enter F.R. No. 1762 of 1858/

The

1. The Court of Foujdaree Adalut concur with the Agent in the conviction of the 1th 2d 3d 6th 8th 9th 10th and 11th Prisoners in this case, and the sentence proposed to be passed upon each.

2. They also concur in the propriety of the acquittal of 4th 5th and 7th prisoners.

Read letter dated 28th August 1858, from the Session Judge of Salem, submitting for the final judgment of the Foujdaree Adalut the record of trial in Case No. 43 of 1858 of the Calendar of the Session Court.

/Here enter F.R. No. 1752 of 1858/

Messrs Hooper and Strange.

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

Caroppa Gounden

is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of Section X, Regulation VIII of 1802, sentence him to suffer death by hanging at the usual time and place of execution.

Read Petty Calendars of the Magistracy for the second quarter of 1858, submitted by the Session Judge of Combaconum.

Read

Read also Extract from proceedings of Session Court of Combaconum on above Calendars.-

Read also copy of correspondence between Session Judge and Magistrate with respect to Case No. 24 in the above Calendars.

Here enter F.R. No. 1686 of 1858.

Calendar I No. 2 Torture

1. In this case a Kummum, who, in the absence of the sub-police officer, had been entrusted with the duty of detecting the perpetrators of a highway robbery, was charged by one of the parties, whom he had apprehended on suspicion, with having beaten and ill-used him with a view to extort a confession from him. The Joint Magistrate convicted the Kummum of the offence charged, and sentenced him to pay a fine of ten rupees, and to be suspended from office for three months.-

2. In his review of this case the Session Judge expressed his opinion that the sentence was most inadequate, and that the defendant should in addition to such sentence have been dismissed from his office, at the same time remarking that as it was a case of "Torture", a report in the form A should have been submitted

submitted to the Court of Foujdaree Adalut, as directed in their proceedings of the 19th February 1858.

3. The Magistrate having declined to dismiss the Kummum as recommended by the Session Judge, and being further of opinion that the case was not of the nature of those intended to be provided for in the Circular order above quoted, the Session Judge refers the matter for the opinion of the Court of Foujdaree Adalut.

4. The Court of Foujdaree Adalut agree with the Session Judge in considering the sentence of ten rupees' fine or imprisonment for fifteen days an insufficient punishment for the offence of "beating with a view to obtain an admission from a suspected party," even although the violence used did not amount to what is generally understood by the term "Torture." They would observe that suspension or dismissal from office should not form part of the sentence in such cases. It is not prescribed by law, and the Government and its officers must be left to determine whether parties convicted of such offences, should, as of course, incur such additional penalty. In the particular case now in question the Court would remark, what appears to have escaped the observation of both the Session Judge and Magistrate, that the accused

accused was not in the exercise of any lawful authority, he being a Kurnum to whom no Police duties properly appertain, and to whom they cannot legally be delegated.-

5 In reference to their Circular of the 19th February 1858, the Foujdaree Udalut would observe that the Magistrate, in his letter of the 13th July, has rightly construed it; and that it is only in cases where the abuse of authority has consisted in resorting to "Torture", that the report in the Form A is to be made.-

6. The Court are further of opinion that great caution is necessary in giving such orders as are suggested in the 3d and 4th paras of the Session Judge's proceedings of the 30th April, or the examination so contemplated may act very unfairly towards the police by inviting the worst characters to invent charges against them. It should be limited to a single, and that not too leading a question, such as, "Have you any thing to say concerning your apprehension?" and should the answer contain a complaint of violence having been used, the Police officer should certify whether the allegation is supported by

by any marks of violence being visible on the person of the deponents.-

Read letter dated 3d September 1858, from the Session Judge of Calicut, submitting for the final judgment of the Foujdaree Udalut, the Record of trial in Case No. 48 of 1858 of the Calendar of the Session Court.

(Here enter F.R. No. 1751 of 1858)

Messrs. Strange and Baynes.

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner.-

1st Poduyat Velakatateh Ramen.

is sufficient to convict him of the offence charged, do convict him thereof, and under the provisions of Section X, Regulation VIII of 1802, sentence him to suffer death by being hanged at the usual time and place of execution.-

And being of opinion that the prisoner,

2d Chechoo

is not convicted on presumptive proof, or on the evidence of credible witnesses, or on their own confession of the crime charged, do acquit him thereof, and direct that he be set at liberty.-

Read letter dated 8th September 1858, from the Session Judge of Tellicherry, submitting

submitting for the final judgement of the Sou-
-daree Udalut the Record of trial in Case No. 16
of 1858 of the Calendar of the Session Court.

/ Here enter S. D. No. 1749 of 1858 /

Offence charged
Culpable Homicide
Mr. C. A. Hospett

The Court of Soujdaree Udalut,
on a deliberate consideration of all the circum-
-stances of the case in evidence before them,
being of opinion that the proof against
the prisoner.-

Arangatt Chechoo

is sufficient to convict him of the offence
charged, do convict him thereof, and under
the provisions of Clause Second, Section XV,
Regulation VIII of 1802, 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 (3) three years.-

No. 30

Read letter from the Acting Agent
in Ganjam, dated 30th June 1858, bringing to the
notice of the Court the number of persons who
have been in confinement for periods varying
from two to twenty months under orders of the
Assistant Agent, Captain Smith.-

/ Here enter S. D. No. 1328 of 1858 /

Read also return to the precept
of the Soujdaree Udalut of the 12th. July from the
acting

Acting Agent at Ganjam, submitting explanation
of the Assistant Agent on the subject of the de-
-tention of the parties referred to in the above letter
of the Acting Agent.-

/ Here enter S. D. No. 1518 of 1858 /

Read also return to the precept
of the Soujdaree Udalut of 28th. August, calling
for further explanations on the same subject
from Captain Smith.-

/ Here enter S. D. No. 1706 of 1858 /

In his letter of the 30th. June /
1858 the Acting Agent to the Governor at Ganjam
brought to the notice of this Court that on taking
charge of the district of Ganjam he was induced
by the number of complaints on the part of
friends and relatives of persons, who had been
detained in custody for lengthened periods by
the Assistant Agent Captain Smith, to re-
-quire from that Officer a list of all persons
in custody and under trial before him. From
the report then submitted by Captain Smith
it appeared that seventy four persons had
been in custody under his orders awaiting
their trial for periods varying from two to
twenty months, a state of things which the
Acting Agent very justly conceived it to be
his duty at once to make known to this Court.

Captain

2. Captain Smith having been called on for an explanation on the subject of the evidently illegal and unjustifiable detention of these parties (a statement of whose number and the periods of their imprisonment is given in the margin) has stated as follows, the grounds upon which they were apprehended and the causes of the delay in the disposal of their cases. "The persons in Nos 1-2-3-5-6-8, are followers of Chotra Bisoye against whom up to the present date no evidence has been forthcoming. Those in No 4 were concerned in a case of procuring abortion; they were detained in the Agent's Court for upwards of five months and forwarded to me on the 19th of February at which time other cases were under inquiry; they were committed for trial on the 18th of June. The parties in No 7 were remanded on a charge of mating away with grain, but on inquiry were released as the case seemed of a Civil nature. Those in No 9 were charged with having attempted to procure false evidence in a criminal case, and were detained till the case was disposed

Persons in Custody

No 1	2	since Nov[r]	1856	or	20	months
No 2	1	"	April	1857	or	14 do
No 3	3	"	Aug[t]	1857	or	10 do
No 4	3	"	do	do	do	do
No 5	4	"	Jany	1858	or	six do
No 6	1	"	Feby	do	or	five do
No 7	7	"	do	do	do	do
No 8	13	"	March	do	or	4 do
No 9	3	"	do	do	do	do
No 10	34	"	May	do	or	six Weeks
No 11	3	Since	June			

of. In No 10 the parties were charged with housebreaking; the disposal of their case was delayed on account of the non-attendance of a party implicated. No 11. Want of time has prevented the investigation of the case."

3. When calling for an explanation from the Assistant Agent on the subject of the detention of these parties, the Court suspected to discover that great irregularities had occurred in the investigation and disposal of their cases and that probably want of energy and exertion on the part of Captain Smith had been the cause of the extraordinary and unexampled delays; but the Court were not prepared to find that an officer exercising important judicial and Magisterial powers should prove himself so ignorant of the first principles of Criminal law and have exhibited such an utter disregard of all law, practice and justice.

Nos 4 and 7.

4. At any other time the proceedings of Captain Smith in the cases noted in the margin would have been thought deserving of the most severe censure of this Court, but their irregularity and injustice sink into insignificance when compared with those in the cases of the so called 'rebels'.

These

These parties were at least charged with the commission of an offence and although the occurrence in No. 4 of five months delay between the case coming before the Assistant Magistrate and its committal for trial was perfectly unjustificable, and although in No. 7 it took the Magistrate months to discover that the acts attributed to the prisoners were not of a Criminal nature, still the Court find there were some legal grounds to justify their original apprehension, and to detain them in custody until some inquiry should be made.-

5 The case of the Bungars or rebels is different. These persons were sent up to the Assistant Agent charged with having been followers of the rebel Chotra Bissoye. Not one atom of evidence in proof of this fact was brought against them, and yet on this vague and unsupported accusation these unfortunate people, including men, women and Children, have been kept in confinement for periods varying from two to twenty months. On the Assistant Agent being asked for a further explanation regarding the case

Nos. 1-2-3-5-6 & 8.

case of these people, he had merely to state that they were believed to be rebels because they were found living in "poobas" away from their villages, and that the only source from which he expected to derive evidence of their complicity in Chotra Bissoye's misdeeds was the records of trials of other rebels, in which it was believed that their names might be mentioned.

6 Captain Smith states that he was in constant communication with the late acting Agent Mr. W. Knox on the subject of these "rebels," and has forwarded various yadasts or memoranda that passed between their offices, also statements of their numbers and dates of their apprehension &c. &c. submitted on various occasions to the acting Agent. The Court can only express their surprise that Captain Smith's illegal and arbitrary proceedings should not have attracted the attention and called forth the interference of the acting Agent, and the Court cannot acquit that officer of a serious neglect of his duties in thus omitting to exercise his power of supervision and control over the acts of his subordinate. Whether, however, this arose from mere neglect on his part or from the confidence he placed in the judgment and discretion of his Assistant does not require to be now determined, as in neither case would

Captain

Captain Smith be relieved from his responsibility.
The only other plea urged by Captain Smith
in justification of his conduct in these cases
is that so much additional work has been
thrown upon him that he has not suffi-
-cient time to devote to his magisterial
duties. The Judges have never accepted
of such a plea for delay in the disposal
of criminal cases, but they would observe
that it is not delay in the legal perform-
-ance of his duty, reprehensible tho' it be,
that now calls for their disapprobation;
but it is the grossly illegal and unjusti-
-fiable nature of the acts committed by
the Assistant Agent, in apprehending and
detaining in custody for months parties
against whom no charge of a specific crime
could be framed, against whom there
was not one tittle of evidence and barely
grounds of suspicion.

The Court have only to add that
not only does the whole course of Captain Smith's
proceedings in these cases testify to his complete
ignorance and wanton disregard of the rules
laid down for his guidance in his magisterial
duties, but that his explanations also exhibit
such an inability to comprehend the extent to

which

which he has violated the principles of law and justice,
that the Court are compelled to express their decid-
-ed opinion that he cannot safely be entrusted
with the very important judicial and magis-
-terial powers attached to the situation of Assist-
-ant Agent, an opinion which the Court consider
it their imperative duty at once to lay before
the Government.

Ed Ellis.

C & Chevers

Wednesday
22d. September 1858.

F. U.

At a Court of the Foujdaree Udalut.

Present.

G. S. Cooper Esquire
J. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read Calendar of Case No. 46 of 1858
on the file of the Session Court of Cuddalore.
/Here enter F. U. No. 1754 of 1858/

As herein recommended, the Court of Foujdaree Udalut, resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.-

Pakeeree Seenoogan
Five years.

Read return dated 13th. instant from the Acting Session Judge of Cuddalore, to the precept of the Foujdaree Udalut under date the 6th. idem, directing the Magistrate of South Arcot to withdraw the interdiction of the Assistant Magistrate in the matter of the distribution of Prasadum in the Pagoda at Serovanderpoorum.-
/Here enter F. U. No. 1756 of 1858/

The Court of Foujdaree Udalut observe that the orders of Government referred to by the Acting Magistrate have reference prominently to

to processions and ceremonials carried on in the open highways, the prosecution of which may lead to disturbance of the general peace. The present is a matter of a different complexion, relating to offices performed within the walls of a pagoda, the disputations arising out of which are not likely to lead to riots such as to inconvenience or endanger the community at large.

Ex. Ho.

C. F. Chamier

F. Mc.

Thursday 23d. September 1858.

At a Court of the Fouzdaree Adalut.

Present.

G. L. Hooper Esquire,
J. Sc. Strange Esquire,
C. R. Baynes Esquire
} Puisne Judges

Read Miscellaneous Petition presented on the 26th. July 1858, by R. Veroonul Row, Pleader on behalf of Veroovugadum, zillah Trichinopoly.

/Here enter F. Mc. P. No. 115 of 1858./

Petitioner appeals from

Messrs. Hooper and Strange

the sentence passed upon him in Case No. 12 of 1858 on the file of the Session Court of Trichinopoly.

The Court of Fouzdaree Adalut see no grounds to disturb the sentence appealed against, and accordingly resolve to reject the petition.

2.

Read Miscellaneous Petition received on the 23d. August 1858, thro' the Principal Sudr Ameen of Vizagapatam, on behalf of Pokachekkala Anniah,

Annivale, of that zillah.

/Here enter F. M. P. No. 134 of 1858/

1. Petitioner prays for the interference of this Court to cancel the sentence passed by the Magistrate, adjudging him to suffer 7 years' imprisonment with hard labor in irons, on a charge of his having thrown out a packet of letters, since discovered in the river Coppooteroo. Messrs. Hooper and Strange

2. Before finally disposing of this petition, the Court of Foujdaree Adalut resolve to call upon the Principal Sudr Ameen of Vizagapatam to procure and forward a copy of the sentence in question

Precept returnable within V days.

Read Miscellaneous Petition received on the 23d. August 1858, thro' the Principal Sudr Ameen of Vizagapatam, from Mogumnals, of that zillah.

/Here enter F. M. P. No. 136 of 1858/

Petitioner

Messrs. Hooper and Strange.

Petitioner prays for the interference of this Court to cancel the sentence passed by the Magistrate, adjudging him to suffer 7 years' imprisonment with hard labor in irons, on a charge of his having thrown out a packet of letters, since discovered in the river Coppooteroo.

2. Before finally disposing of this petition, the Court of Foujdaree Adalut resolve to call upon the Principal Sudr Ameen of Vizagapatam to procure and forward a copy of the sentence in question.

Precept returnable within V days.

Read Criminal Reports for the month of August 1858, submitted by the Session Judge of Nellore.

/Here enter F. M. P. No. 1757 of 1858/

A Report No. 163

1. The Court have on several occasions expressed their disapproval of the modification by a Session Judge of the sentence of the Subordinate

Criminal

Criminal Judge, on the grounds of his not agreeing with the Subordinate Judge as to the exact amount of punishment which the offence calls for.

2. Looking to the value of the property stolen, the Court do not understand why the case was not disposed of by the District police or Magistracy. B. No. 155 Theft.

Read letter dated the 13th instant, from the Session Judge of Rajahmundry, submitting, for the opinion of the Judges, the question whether on conviction of an offence under Regulation XIV of 1832 it is competent to the Criminal Judge to pass a more lenient sentence than that specified in the enactment.

/Here enter F. M. C. No. 1758 of 1858./

The Judges are of opinion that the law gives the Criminal Judge no option in the matter, and that he must fine to the full extent of forty rupees, commutable if not paid

to

to imprisonment for three months, but without labor or irons.

Ed Hall. C. S. Chamier

Friday
24th September 1858.

F. C.

At a Court of the Foujdaree Udalut.

Present

G. S. Cooper Esquire
J. L. Strange Esquire } ... Puisne Judges.
C. R. Baynes Esquire

Read Calendar of Case No. 55 of 1858 of the Session Court of Calicut.-

/ Here enter F. C. No. 1796 of 1858 /.

1. The Court of Foujdaree Udalut agree with the Session Judge in considering a mitigation of the prescribed punishment proper, and consider that in addition to the corporal punishment awarded an imprisonment of 3 years will be a sufficient punishment.-

2 The Session Judge will be pleased to issue his warrant accordingly.-

Read letter dated the 15th instant, from the Session Judge of Calicut, requesting the instructions of the Foujdaree Udalut as to how the practice of importing tobacco into the towns of Anjengo and Tangacherry, for the purpose of smuggling the same into the Travancore territory, can be legally suppressed.-

/ Here enter F. C. No. 1783 of 1858 /

The

24th September 1858.

The Court of Foujdaree Udalut do not see what instructions are necessary, there being no law remaining to be enforced within the British territories for restriction of traffic in tobacco. The letters of the Magistrate of the 24th and 26th February 1858 clearly show how the question stands, and the Session Judge has not explained what other course, in his opinion, can be pursued.-

Read again Calendar in Case No 53 of 1858 on the file of Session Court of Madura.-

/Here enter F. D. No 1315 of 1858/

Read again letter from Session Judge of Madura, dated 17th August, bringing to the notice of the Foujdaree Udalut the conduct of the Police Ameen of Camoody under Clause I, Section XXXIX, act VII of 1843.

/Here enter F. D. No 1603 of 1858/

Read again return to Foujdaree Udalut precipt of 10th July, calling for explanation from Police Ameen of Camoody.-

/Here enter F. D. No 1490 of 1858/

Read return to the precipt of the Foujdaree Udalut of 7th August.-

/Here enter F. D. No 1656 of 1858/

Read letter from Session Judge of Madura dated 6th September, submitting letter from

24th September 1858.

from the Magistrate with reference to Police Ameen of Camoody.-

/Here enter F. D. No 1708 of 1858/

1. On a consideration of the proceedings in the case of the Police Ameen of Camoody and of the explanations submitted by that officer, the Court are of opinion that there do not appear sufficient grounds to render it necessary for them to exercise the special powers vested in them by Clause I, Section XXXIX, Act VII of 1843.-

2. The Magistrate, however, having reported that officer to be unfit to conduct the duties of his present appointment, it remains with him to take such steps as he may think fit for transferring him to some other situation.

Ex Sall.

C. S. Clarke

The Court of Foujdaree Udalut do not see what instructions are necessary, there being no law remaining to be enforced within the British territories for restriction of traffic in tobacco. The letters of the Magistrate of the 24th and 26th February 1858 clearly show how the question stands, and the Session Judge has not explained what other course, in his opinion, can be pursued.-

Read again Calendar in Case No. 53 of 1858 on the file of Session Court of Madura.-

/Here enter F. D. No. 1315 of 1858/

Read again letter from Session Judge of Madura, dated 17th August, bringing to the notice of the Foujdaree Udalut the conduct of the Police Ameen of Camoody under Clause I, Section XXXIX, Act VII of 1843.

/Here enter F. D. No. 1603 of 1858/.

Read again return to Foujdaree Udalut precept of 10th July, calling for explanation from Police Ameen of Camoody.-

/Here enter F. D. No. 1490 of 1858/

Read return to the precept of the Foujdaree Udalut of 7th August.-

/Here enter F. D. No. 1656 of 1858/

Read letter from Session Judge of Madura dated 6th September, submitting letter from

from the Magistrate with reference to Police Ameen of Camoody.-

/Here enter F. D. No. 1708 of 1858/

1. On a consideration of the proceedings in the case of the Police Ameen of Camoody and of the explanations submitted by that Officer, the Court are of opinion that there do not appear sufficient grounds to render it necessary for them to exercise the special powers vested in them by Clause I, Section XXXIX, Act VII of 1843.-

2. The Magistrate, however, having reported that Officer to be unfit to conduct the duties of his present appointment, it remains with him to take such steps as he may think fit for transferring him to some other situation.

Ex Edl.

C. H. Cameron

F. Ud.

At a Court of the Foujdaree Udalut

Monday
27th September 1858.

Present

G. S. Hooper Esquire.
T. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire.

Read letter from the Session Judge of Combaconum dated 18th September 1858, fowarding copy of a sentence of the Magistrate of the district

(Here enter F. Ud. No. 1806 of 1858)

With reference to this letter and its enclosure the Court would point out to the Session Judge, that this is not the usual way of submitting a case which the Session Judge may consider to call for notice or observation. The copy of the sentence is now returned, that the Session Judge may make such remark, or take such course as may seem to him most proper. —

Read letter from the Session Judge of Chittoor, dated 20th September 1858, fowarding copy of a letter from the Magistrate.

(Here enter F. Ud. No. 1787 of 1858)

In this letter, the Session Judge fowards a copy of a letter from the Magistrate, requesting instructions from the Court of Foujdaree Udalut as to the disposal of the money paid.

paid by the prosecutor in Calendar No. 30 of 1856. 27th September 1858.

2. The Court have to observe that, had the money in question been tendered voluntarily by the prosecutor on demand, it might have been appropriated for the purpose for which the demand was made, but as it has been paid in in consequence of a compulsory process, raised in misapprehension of the orders of this Court, the Court are of opinion that it should be restored to him.

Read Miscellaneous Petition presented on the 27th Instant by J. W. Branson Esqre Pleader on behalf of Vencatareddy Naick and others, of Zillah Madura.

(Here enter F. M. P. No. 161 of 1858.)

1 The petitioners state that on the petition of one Venkiah, an order has been passed by the Acting Session Judge, detrimental to their interests, and that their request for a copy of the said order has been refused, by which they are prevented from appealing to this Court: and the petitioners therefore pray that a precept may issue to the Session Court directing that they be furnished with an authenticated copy of the order in question. Messrs. Strange and Baynes.

2 The Court of Foujdaree Udalut resolve to instruct the Acting Session Judge to furnish the petitioners with a copy of the order referred to by the petitioners, if, as represented by them, it is one in any respect.

27th September 1858. respect affecting them. The Court further desire that the Acting Session Judge will explain why he may have declined to furnish petitioners with the said order.

Precept returnable in III days.

Read Miscellaneous Petition presented on the 9th instant by Alamaloo, Zillah Chingleput.

(Here enter F. M. P. No. 155 of 1858.)

This petition not being accompanied by authenticated copy of the order appealed from, the Court decline to take it into consideration. Messrs. Strange and Baynes.

Read Miscellaneous Petition presented on the 6th instant by S. Peroomala Chetty, Pleader on behalf of Putchmana Goudoo, Zillah Bellary.

(Here enter F. M. P. No. 151 of 1858)

Petitioner prays the Court of Foujdaree Udalut to reverse the sentence passed upon him in Case No. 52 of 1858, on the file of the Session Court of Bellary. Messrs. Strange and Baynes.

1 The Court see no ground to interfere

2 with the sentence in question and accordingly reject the Petition.

Read Miscellaneous Petition presented on the 6th instant by S. Jeroomala Chetty, Pleader on behalf of Basawana Goudoo, of Zillah Bellary.

(Here enter F. M. P. No. 152 of 1858.)

Petitioner

27th September 1858.

1 Petitioners appeals from the sentence of the Session Judge in case No. 53 of 1858 wherein he is prisoner. Messrs. Strange and Baynes.

2 The Court of Foujdaree Udalut see no reason to interfere with the Sentence in question, and accordingly reject the petition.

Read Miscellaneous Petition received on the 30th ultimo through the Session Judge of Rajahmundry, from Boorugapullee Ramasawmy of that Zillah.

(Here enter P. M. P. No. 114 of 1858)

1 Petitioner appeals from the sentence passed by the Session Judge in Case No. 114 of 1858, in which he is first Prisoner. Messrs. Strange and Baynes.

2 The Court of Foujdaree Udalut see no reason to question the propriety of the sentence appealed against, and accordingly resolve to reject the Petition.

C. B. Clarke

Exd Dll.

F. 66.

Tuesday 28th September 1858.

At a Court of the Foujdaree Udalut.

Present

W. S. Hooper Esquire.
J. L. Strange Esquire. } Puisne Judges
C. R. Baynes Esquire.

Read letter dated 27th August 1858, from the Session Judge of Rajahmundry, submitting for the final judgment of the Foujdaree Udalut the record of Case No. 17 of 1858 on the Calendar of the Session Court.

(Here enter F. 66. No. 1815 of 1858.)

Mr. W. S. Hooper.

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

Pubbumala Nookadoo

Rape. is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of clause 3d Section

VII

28th September 1858.

VII Regulation XV of 1803 and Regulation VIII of 1828, sentence him to receive one hundred lashes with a cat-o-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 (4) ~~four~~ years.—

Exd Each.

C. S. Chamier

F. C.

Thursday 30th September 1858 } At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre
J. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges.

Read Calendar of Case No 130 1858 on the file of the Sessions Court of Nellore—

Here enter F. C. No 1816 of 1858.

As herein recommended, the Court of Foujdaree Udalut, resolve to authorize the Sessions Judge, to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.—

1 † Supparkula Lukshmanagadu — Four years.
2 Chevuru Venkiahgadu — Four years.
3 Grandham Cotadu — Four years.

Read Calendar of Case No 31 of 1858 on the file of the Sessions Court of Nellore

(Here enter F. C. No 1817 of 1858.)

As herein recommended, the Court of Foujdaree Udalut, resolve to authorize the Sessions Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of

† Chaganam Papadu — Four years.

of the sentence passed upon him in the said case.

Read Calendar of Case No 31 of 1858 on the file of the Session Court of Coimbatore.

(Here enter F. Ch. No 1826 of 1858.)

As herein recommended the Court of Foujdaree Udalut, resolve to authorize the Session Judge, to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

Coolpaccaroom. Two years.

Read Criminal reports for the month of August 1858 submitted by the Session Judge of Bellary.

(Here enter F. Ch. No 1822 of 1858)

The Court would point out that irons cannot be awarded under Section VIII Regulation XIII of 1832. That portion of the sentence must therefore be cancelled.

No 163 Cattle Killing.

Read Calendar of Case No 78 of 1858 on the file of the Session Court of Bellary.

(Here enter F. Ch. No 1823 of 1858.)

The Court of Foujdaree Udalut observe that 3 prisoners are mentioned in

in the sentence of the Session Judge as having been concerned in this case, whereas the names of only 2 prisoners are entered in the second column. The Session Judge is requested to explain this discrepancy.

Precept in 11 days.

Read Calendar of Case No 37 of 1858 on the file of the Session Court of Tellicherry

(Here Enter F. Ch. No 1828 of 1858.)

The Court of Foujdaree Udalut observe that the evidence to identification has been rejected and nothing remains against the 1st and 4th prisoners but that they have been at enmity with the deceased, and his family.

They do not consider that this circumstance justifies the requisition of security from them, and they accordingly resolve to cancel the order, and direct the unconditional release of the above prisoners.

2

Precept in 111 days.

Read letter dated 16th September 1858 from the Session Judge of Calicut submitting for the final Judgment of the Foujdaree Udalut the record of trial in Case No 50

30th September 1858.

No 50 of 1858 in the Calendar of the Sessions Court.

offence charged
Wounding with intent to kill

Mr C. R. Baynes

(Here enter F.C. No 1830 of 1858)

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the Case in Evidence before them, being of opinion that the proof against the prisoners,

1st Iran Mandarata Valapil Kuna

and

2nd Annakamat Cooshaw.

is sufficient to convict them of the offence charged, do convict them thereof, and sentence them to be transported to such place or places beyond sea, as the Governor in Council shall appoint, there to be imprisoned, and kept to hard labor on the public roads or other public works for and during the period of their natural lives.

C. Chamier

Ex 180

F.C.

Friday
1st October, 1858.

At a Court of the Foujdaree Udalut.

Present.

G. L. Cooper, Esquire
T. L. Strange, Esquire
C. R. Baynes, Esquire
} Puisne Judges.

Read letter dated the 28th ultimo, from the Sessions Judge of Chittoor, forwarding copy of a letter from the Subordinate Judge, in which that officer requests authority to transfer nine of the prisoners convicted in Case No 54 of 1858 on the Chittoor Calendar to the Jail at Chingleput.

(Here enter F.C. No 1840 of 1858).

The Court of Foujdaree Udalut observe that all applications of this nature should be made to the Inspector of Prisons.—

Read Criminal Reports for

for the month of August 1858, submitted by the Sessions Judge of Combaconum.-

//Here enter Fld. No. 1807 of 1858//-

1. With reference to the remarks of the Sessions Judge in this case, the Court would point out that the indictment, as corrected by him, does not charge the prisoner with an act criminally punishable. If there was evidence to show that he had had the property in his possession knowing it to have been stolen, he should have been charged accordingly.

No. 81. House breaking &c.

2. The Sessions Judge is requested to point out for the instruction of the Joint Magistrate, that the mere omission, on the part of Government officers, to do their duty does not form grounds for a criminal charge. The period of imprisonment awarded having already expired, the Court will not interfere with the sentence.-

Magistrate's Calendar No. 11. Misdemeanor.

Read

Read letter dated the 12th August 1858, from the Acting Sessions Judge of Madura, referring for the final judgement of the Fouzdaree Adalut, the Record of Case No. 51 of 1858 of the Calendar of the Sessions Court.-

//Here enter Fld. No. 1553 of 1858//-

The Court of Fouzdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the Prisoners.

Messrs. Hooper and Strange.

Offence charged- Gang Robbery and Murder.

1st Looria Moortia Pillay.
2d Letchummunun.
3d Soobbun.
4th Appavoo.
5th Ramasawmy.
6th Curpaunn.
7th Pavien.
8th Alago.
9th Soundaun.
10th Pitchun.
11th Curtanasamy.
12th Savooga Peroomal. and
13th Nagalingum.

are

1st October, 1858.

are not convicted on presumptive proof, or on the evidence of credible witnesses, or on their own confession, of the crime charged, do acquit them thereof, and direct that they be set at liberty.-

E.D.Sall.

C.S. Chamier

F.A.C.

Saturday. 2d October, 1858. At a Court of the Foujdaree Adalut

Present.

G.L. Cooper, Esquire
J.L. Strange, Esquire. } Puisne Judges.
C.R. Baynes, Esquire

Read Calendar of Case No. 70 of 1858, submitted by the Acting Sessions Judge of Madura.-

Were Enter F.A.C. No. 1837 of 1858/-

The Court of Foujdaree Adalut presume that the neglect of the Police authorities in investigating this case, and the evil and inconvenience arising from the non-appointment of a successor to the deceased Village Moonsiff, have been brought to the notice of the Magistrate by the Sessions Judge.-

Read Calendar of Case

No.

2d October, 1858.

No. 12 of 1858, on the file of the Sessions Court of Chicacole.—

(Here enter F. M. P. No. 1838 of 1858.)

As herein recommended, the Court of Foujdaree Adalut resolve to authorize the Sessions Judge, to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon the prisoner in the said case.—

3d Palaveram Cummandoo.

4 years.

Ex Evil.

C S Chamier

F. U.

Monday 4th October 1858.

At a Court of the Foujdaree Udalut.

Present.

G. S. Hooper Esquire
T. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read Miscellaneous Petition presented on the 1st June last, by John Miller Esqr. Pleader on behalf of Venkatachella Naicker Zillah Chittoor.—

(Here enter F. M. P. No. 84 of 1858.)

Mess Hooper and Baynes.

This is an application for a reconsideration of the order of this Court under date the 8th March last, upon Foujdaree Miscellaneous Petition No. 12 of 1858.—

2 The Court of Foujdaree Udalut observe that the orders of the 19th July 1852, 7th September 1854 and 1st May 1855, which appear to have governed both parties for years past, have been virtually suspended in favor of the right-hand party by the joint Magistrates' order of the 24th September 1857 allowing to a party of the right-hand a privilege, which ought, in that case, and in the spirit of the

the orders referred to, to be extended to the left-hand party also. The Session Judge in confirming the order, does not say on what grounds he does so, or deal with the objections of this petitioner in such way as to enable the Poydarea Udalut to determine whether he Petitioner has cause of comptaint or not, and they therefore resolve to remand the case for his reconsideration and orders de-novo.

Read Miscellaneous Petition presented on the 30th August last, by S. W. Branson Esqre Pleader on behalf of Cawder Mera Rowthen Prisoner in case No. 34 of 1858 on the file of the Session Court of Madura.

(Here enter P. M. P. No. 138 of 1858)

Read also Miscellaneous Petition presented on the same day by the same Pleader on behalf of Cawder Prisoner in case No. 35 of 1858 on the file of the above Session Court.

(Here enter P. M. P. No. 139 of 1858)

Read also Miscellaneous Petition presented on the same day by the same Pleader on behalf of Curdar Samboo Prisoner in case No. 36 of 1858 on the file of the above Session

Session Court

(Here enter P. M. P. No. 140 of 1858)

Read also Miscellaneous Petition presented on the same day by same pleader on behalf of Mahomedally Prisoner in case No. 37 of 1858 on the file of the Session Court aforesaid

(Here enter P. M. P. No. 141 of 1858)

The Court of Poydarea Udalut

Messrs. Hooper and Baynes. observe that the Session Judge's omission to cite the witnesses named by the Prisoner in case No. 34 of 1858 has left them no alternative but to direct that he re-open the case and after taking such evidence, pass a fresh sentence; the present one being of course suspended in the interim — and they further direct that having done so, — he will submit a translation of the record for the consideration of the Poydarea Udalut

The Court also direct that he will 2 at the same time foward the original records in Nos. 35, 36, and 37 on the file of the Session Court for 1858, against which appeals have likewise been presented.

Precept returnable in XX days.

Read.

Read Miscellaneous Petition presented on the 16th August last, by S. W. Branson Esqre Pleader on behalf of Narasimmatatha Chetty and others Zillah Trichinopoly.

(Here enter F. M. P. No 128 of 1858)

1 Petitioners pray that they may be heard by their Counsel in opposition to any appeal that may be preferred by the Irugala Bramins of Trichinopoly from the order of the Session Judge bearing date the 15th July 1858. Messrs Hooper and Baynes.

2 There being nothing at present before the Court no order can be passed.

Read again Miscellaneous Petition presented on the 22d July last, by S. N. Cunterava Chetty Pleader on behalf of Muddepaty Achaumah and 3 others, the 3d 4th 5th and 6th Prisoners in Case No 44 of 1858 on the file of the Session Court of Masulipatam praying for the reversal of the sentence passed upon them in the case in question.

(Here enter F. M. P. No 112 of 1858)

Read also return dated the 10th ultimo.

ultimo, from the Session Judge of Masulipatam to the Precept of the Foujdaree Udalut under date the 23d August last, calling upon him to state whether, as alleged by Petitioners any defence was made and witnesses thereto cited by the Prisoners in the above case, and if so, why they were not summoned.

(Here enter F. W. No 1746 of 1858)

The Session Judge in his return admits that the prisoners desired to cite witnesses; but states that he did not call and examine them, because he considered the guilt of the prisoners did not admit of doubt.- The Foujdaree Udalut regret to find the Session Judge putting forth such a reason. His experience should have taught him that a judicial determination of guilt cannot be arrived at till the accused have been allowed to adduce whatever evidence they may deem essential to their defence; and that a neglect of this established rule leaves an appellate Court no alternative but to direct the case to be re-opened, the evidence taken, and a new sentence passed, the present one being of course suspended in the

Mr. C. R. Baynes

interim

4th October 1858

interim. The Session Judge will therefore adopt this course.

Precept returnable in XX days.

Lt 18.D. C S Cramer

Tuesday
5th October 1858.

F. C.

At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esquire
J. L. Strange Esquire
C. K. Baynes Esquire
} Puisne Judges

Read letter from the Session Judge of Combaconum dated September 27th 1858, with reference to the proceedings of the Foujdaree Udalut of the 21st September 1858.

(Here enter S.Y. No 1845 of 1858)

In this communication the Session Judge of Combaconum states that he gathers from the proceedings of this Court of the 21st September 1858, that "simple beating to compel a person to confess" is not to be considered "Torture", and, in order that there may be no grounds for misapprehension on the point, he now acquaints the Court with the construction he puts upon their proceedings above quoted.-

2 The Court would observe that the Session Judge is under a misapprehension in supposing that the Court in these proceedings intended to declare that simple beating to compel a confession would not constitute "Torture". Their remark was made in a particular case

case, in which the maltreatment of a prisoner was apparently considered by the Magistrate to have been very slight and not deserving severe punishment, but they wished it to be clearly understood that any degree or kind of violence used with the hope of intimidating an accused party, or eliciting admissions from him, was a highly penal offence, even though in the opinion of the authority trying the case, it might not amount to what is commonly understood by the term "Torture"; ie the persistent application of means productive of pain, with the avowed and determined purpose of compelling the saying or doing of anything which the party acted upon may refuse to do or say.-

Read letter dated 24th September 1858, from the Session Judge of Calicut, submitting for the final judgment of the Sudder Adalut the record of trial in Case No. 52 of 1858 on the Calendar of the Session Court.

/Here enter S. C. No. 1870 of 1858/

The Court of Sudder Adalut, Mr. T. L. Strange on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner, 1st Chayangatha alias Poliakot Valia Nair

is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of Clause Second, Section XV, Regulation VIII of 1802, 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 (14) fourteen years.

Ed. Ball. C. S. Cramer

F. C.

Wednesday
6th October 1858. At a Court of the Foujdaree Udalut.

Present.

G. S. Hooper Esquire
J. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read letter from the Sessions Judge of Combaconum dated September 29th forwarding copy of amended proceedings on Case No. 1 of 1858 of the Petty Calendars of the Magistracy.

/Hereunto F. C. No. 1852 of 1858/

With reference to the amended proceedings now submitted by the Session Judge, the Court would point out that the Circular Order, directing that the special attention of the Court should be called to cases of abuse of authority disposed of by the Magistracy, also enjoined that the cases should be carefully reviewed in the first instance by the Session Judge, and his opinion thereon recorded. As the Session Judge has not made any comment on the present case, the Court are unable to understand whether the proceedings and sentence meet with his approval. - is

C. S. Clarke

Ed. Dl.

F. U

Thursday
7th October 1858.

At a Court of the Foujdaree Udalut.

Present.

G. S. Hooper Esquire
T. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire.

Read Calendar of Case No. 78 of 1858
submitted by the Acting Session Judge of Madura.

(Here enter F. U. No. 1865 of 1858.)

The Court of Foujdaree Udalut observe that the Acting Session Judge should not have disposed of the case without trial. His opinion is formed upon appreciation of the evidence, and should not have been given without examination of the witnesses.

Read letter from the Session Judge of Chittoor dated 29th September 1858, requesting the opinion of the Court as to whether copies of their orders passed by the Magistracy should be furnished to the parties on plain or stamped paper — and second whether with reference to Circular Order No. 25. it is necessary that the native Officers of Police should enter the grounds of their sentence in the column where sentence is recorded.

Here

(Here enter F. C. No. 1544 of 1858)

1 In their proceedings of the 26th February 1850, the Court have already directed that copies of all sentences should be furnished by the Magistrates on unstamped paper, and in the absence of any provision to the contrary in Section XXII Regulation XIII of 1816 they concur with the Session Judge in considering that the rule should include all orders of whatever description passed by the Magistracy

2 With respect to the second point submitted for their opinion the Court consider the entry of the ground of decision in the Statement in question is unnecessary. The insertion of the date of warrant or summons the Court agree with the Session Judge in thinking would be an improvement.

Read Calendar case No 70 of 1858 on the file of the Session Court of Bellary.

(Here enter F. C. No. 1861 of 1858.)

1 As herein recommended, the Court of Foujdaree Udalut, resolve to authorize the Session Judge, to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the Sentence passed upon them in the said case.

× 1 Boya Kamsegaudo
2 Bogum Narayanah
3 Boya Sorbadoo
7 Years.

Read Miscellaneous Petition presented on the 12th July 1858 by S. Touchoo Menon, Pleader on behalf of Arimbara Coonjoo Nair of Zillah Calicut.

(Here enter F. M. P. No 104 of 1858)

M.P. Hooper and Baynes. 1 Petitioner appeals from the order of the late Acting Session Judge under date the 29th March 1858, confirmatory of the Joint Magistrate's order, which affirmed the decision of the Head of Police removing the objection to the performance of the Pana ceremony in the Pala Cooyil Kavil Pagoda, and referring the Petitioner to a civil Suit.

The Foujdaree Udalut consider

2 that the Petitioner has been properly referred to a civil action if he consider himself endamaged by the conduct of the opposite party.

Read Miscellaneous Petition presented on the 9th September 1858 by Krishna Pillay of Zillah Chittoor.

(Here enter F. M. P. No 154 of 1858)

M.P. Hooper and Baynes. 1 This is an appeal from the Sentence passed by the Session Judge, acquitting the

the prisoners in case No. 38 of 1858 on the file of the Session Court of Chittoor

2. Petitioner is informed that no appeal lies from a sentence of acquittal. His petition is therefore rejected.

Read Miscellaneous Petition presented on the 2nd September 1858 by M. Venkatarayalow Naidoo, Pleader on behalf of Varanarasey-gounden, and Ramasawmy gounden of Tillal Comitatoe.

(Here enter F. M. P. No. 1145 of 1858)

Petitioners pray for the interference of the Foujdaree Udalut to reverse the order of the Sessions Judge under date the 26th June 1858, confirming the Magistrate's refusal to accept the securities tendered by the Petitioners in pursuance of the sentence passed against them by that Officer in case No. 19 of 1858, on the ground that the Sureties in question were tendered in another Tillal. Mess. Hooper and Baynes

2 The Court of Foujdaree Udalut consider that it lies with the Magistrate to determine whether he will accept securities so circumstanced or not

3. Petition dismissed.

Read.

Read again Miscellaneous Petition received on the 28th April last, through the Sessions Judge of Bellary, from Hanoomacca of that Tillal.

(Here enter F. M. P. No. 64 of 1858)

Read also Miscellaneous Petition received on the 30th August 1858 through the Sessions Judge of Bellary from Madar 1st prisoner in case No. 21 of 1858.

(Here enter F. M. P. No. A 144 of 1858)

Read also return dated the 26th August last, from the Sessions Judge, forwarding original Record of trial of Case No. 21 on the file of his Court.

(Here enter F. M. No. 1662 of 1858)

Mess. Hooper and Baynes. The Court of Foujdaree Udalut having gone through the record in this case, with special reference to the exceptions taken by the Petitioner to the evidence, on which he has been convicted, do not find that the allegations therein are in any degree supported by the facts; and they therefore resolve to reject this Petition

Read Miscellaneous Petition presented

sented on the 9th August 1858 by S. Pinchoo Menon Pleader on behalf of Pothanat Ramoony Panikar of Zillah Calicut.

(Here enter F. M. P. No 121 of 1858.)

1 Petitioner appeals from the order of the Session Judge under date the 22d April last, affirming the Acting Joint Magistrate's order, whereby that Officer, in confirmation of the decision of the Head of Police, directed the release of the prisoners whom the Petitioner accused of having committed a robbery in his house.— Mcf Hooper and Baynes.

2. The Court of Foujdaree Udalut cannot interfere in behalf of the Petitioner; and accordingly resolve to reject this petition.

Read Miscellaneous Petition presented on the 20th September 1858 by S. Terromala-Charry, Pleader on behalf of Rasuppa Naidoo of Zillah Bellary.

(Here enter F. M. P. No 159 of 1858)

1 This is an appeal from the sentence passed by the Session Judge upon the petitioner in case No 31 of 1858 wherein his is 1st prisoner. Mcf Hooper and Baynes.

2 The Court of Foujdaree Udalut see no ground to question the propriety of the sentence

C. A. Chamier in

in question and accordingly reject this petition.—

Do 18th.

F. U.

Friday
2nd October 1858 } At a Court of the Fouzdaree Udalut

Present

G. S. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire } Puisne Judges

Reads Calendar in Case No 77 of 1858 from the Session Judge of Bellary.

(Here Enter Pll No 1856 of 1858)

The Court of Fouzdaree Udalut direct the Session Judge to call upon the Magistrate to enquire into, and make a report upon, the alleged maltreatment of the Prisoner; and to transmit the same to this Court.

Precept returnable in X days.

Read Calendar of Case No 47 of 1858 on the file of the Acting Session Judge of Salem.

(Here Enter Pll No 1873 of 1858)

The Court of Fouzdaree Udalut doubting the propriety of the conviction in this case resolve to call upon the Session Judge to forward the original record for their consideration -

The

2. The Foujdaree Adalut observe that the "Prosecutors vakeel" is stated by the Subordinate Judge" to have confirmed the deposition given by the Prosecutor before the police;" and by the acting Session Judge the Prosecutor is said "to have deposed through his Vakeel." and they desire to be informed, whether this vicarious testimony was taken under affirmation and accepted as evidence - and also why the personal attendance of the Prosecutor was dispensed with in a case where the propriety of testing his extraordinary story by cross examination was so obvious.

Receipt returnable in V days.

Read letter dated 6 ultimo from the Agent to the Governor of Fort St. George at Vizagapatam submitting for the final judgment of the Foujdaree Adalut the record in case No 8 of 1858, of the Calendar of the agents Court.

(Here Enter S.R. No 1868 of 1858)

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the

Messrs Hooper and Strange.

the prisoner,

Pattamijjy Nanyakamah alias

Pattamijjy.

is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of Section X Regulation VIII of 1802, sentence him to suffer death by being hanged at the usual time and place of execution.

Ds Wd.

C. D. Chamier

F. U.

Monday 11th October 1858.

At a Court of the Fouydaree Udalut.

Present.

G. S. Hooper Esquire
F. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read Miscellaneous Petition presented on the 20th September 1858 by Veerabahoo Pillay of Zillah Tinnevelly

(Here enter F. M. P. No. 160 of 1858)

Mr. Hooper and Strange. Petitioner appeals from the proceedings of the Session Court of Tinnevelly confirming the order of the Magistrate removing the petitioner from Office of Curnum.-

2 The Court of Fouydaree Udalut resolve to reject this Petition, the petitioner not having produced any order appealed from, and the matter not being one within the jurisdiction of the Court.

Read Miscellaneous Petition presented on the 12th August 1858 by V. Sadagopa Charloo Pleader on behalf of Toolasy Ramien of Zillah Calicut.-

(Here enter F. M. P. No. 126 of 1858)

Petitioner

1 Petitioner appeals from the Pro- Mess Hooper and Strange.
-ceedings of the Session Court of Calicut dated 11th May 1858, reversing the order of the Acting Joint Magistrate and directing the fence round the tank in question to remain in Statuquo till the question of right of way is determined by a competent Civil tribunal.

2 The Court of Foujdaree Udalut see no reason to interfere with the order appealed against, and accordingly reject this petition.

Read Miscellaneous Petition presented on the 22d July 1858, by S. Veeramala-charry, Pleader on behalf of Vasoodava Numbroodripaud, of Zillah Calicut.

(Here enter F. M. P. No. 111 of 1858.)

1 Petitioner appeals from the order Mess Hooper and Strange.
of the Session Court of Calicut under date the 21st April 1858, prohibiting him from constructing a building on land in his possession.

2 The Court of Foujdaree Udalut are of opinion that the proceedings taken in this case are altogether irregular. The question of Petitioner's title to construct a building upon land

land in his own possession is one involving purely Civil rights upon which the Police and Magistracy are not competent to pronounce.

3 The Court resolve therefore to set aside all the orders passed in this matter, leaving the petitioner's opponent to seek his remedy from the Civil tribunals.

Read letter from the Session Judge of Madura dated 25th Ultimo, submitting at the request of the Subordinate Judge a question for the opinion of the Court of Foujdaree Udalut.

(Here enter F. U. No. 1836 of 1858.)

As this reference does not arise upon a question under present consideration and as the object of it is not apparent, the Court decline to take it into consideration.

Read letter dated 30th September 1858 from the Session Judge of Bellary, forwarding Copy of a letter from the Magistrate of Bellary with reference to a petition presented before the Court of Foujdaree Udalut by one Ratchuppa.

(Here enter F. U. No. 1885 of 1858.)

Pw.

The Session Judge is directed to inform the Magistrate, that the Fouydaree Udalut alluding in their proceedings of the 16th June 1858 to a case referred to by the Magistrate as disposed of by him on the 15th January, spoke of it as one in which the appeal time had expired; not knowing that an appeal had been actually put in on the 15th of April Such however was the case and on the 1st June Petitioner applied for, and obtained, as a matter of course, an order for copy of the proceedings appealed against; which having been given, the petition will now be disposed of at an early date.-

Read again Calendar of Cases Nos 60 and 61 of 1858 on the file of the Session Court of Madura.

(Here enter S. D. No 1488 of 1858.)

Read also Supplemental return dated 30th ultimo, from the Acting Session Judge of Madura, to the precept of the Fouydaree Udalut dated 10th August 1858, calling for records in Cases Nos 60 and 61 of 1858.-

(Here enter S. D. No 1866 of 1858.)

The

No 61.

1 The Court of Fouydaree Udalut observe that there are circumstances in this case calculated to beget doubt of the robbery having taken place in the manner alleged; but allowing that Palany andy (1st Prosecutor), Sendy (2d Prosecutor), Iyasamy (1st Witness), and Thoora=singum (2d witness), and their companions were set upon and robbed near the village of Thotty Muttum, it remains to determine whether there is sufficient and satisfactory proof of the presence of these prisoners among the robbers.-

2 It is to be remarked that no immediate complaint was made; 2d Prosecutor and the witnesses saying it did not occur to them to do so; that not till 7 days after the robbery, viz. on the 29th March did Palanyandy give written authori=sation to his Vakeel Annachellum to prosecute "the "Villagers of Mahvalingum, Kaloo tharoo cum, Arya=mungalum, Ponthumpoky, Thoothy muttum and other villages; mentioning no names, but promising "to approve of all the acts his said "Vakeel should do on his behalf in the matter as "though done by himself in person."-

3 Armed with these large and extra=ordinary

ordinary powers, Arnachellum went on the same
day to the Head of Police and lodged a complaint
against 17 individuals by name; and in order to
leave himself ample margin for future accusa=
tions, added "five other men of Thoothymuttum
" and 19 of Mahavalingum, 41 in all." His principal
1st Prosecutor, and the 2d Prosecutor were then close
at hand, and able it is to be supposed to give him
this information though unable as he deposed to
appear before the Police or give answers; but warrant
appears to have been issued on his statement alone.

From that time till the 22d June,
4-
3 months, nothing appears to have been done. the
6 Prisoners were then placed before the 1st & 4th
Prosecutor's Vakeel, and declared by him to be
some of the parties mentioned in his charge and
whom he had been informed by Palany Andy
and others had committed the robbery.-

5 The only part of this Vakeels State=
ment that even pretended to affect the prisoners
was the circumstance of his having been told by
Palany Andy that certain men whom he named
had robbed him. This even if it were proved, =

which

which it is not, is mere hearsay. A statement =
intended to be supported by evidence may be made
by a Vakeel but evidence itself cannot be given by
proxy.-

6 The case therefore remains resting
on the evidence of the 2d Prosecutor "Sendy" who
if he did not intentionally perjure himself in declaring
that the Vakeel "was present at the robbery" at all events
betrayed such negligence of truth as to deprive him of
all credit even had the circumstances to which he in
common with the 1st and 2d witnesses deposed been
in themselves credible, which they clearly are not-

7 It is almost impossible to believe that
they, after an absence of 4 or 5 years from the country,
suddenly attacked, at a considerable distance from
their own village, by a large band belonging to =
various villages in that locality, they should under
the circumstances described by them, have been able
to recognize so many acquaintances known to them
by name or even to have taken such note of their
features as would enable them, three months after=
wards, to identify them; but it is quite impossible
to credit that if they had done so; complaint would
not have been made immediately in view to prompt

Search

search for property - it is but too evident that the interval between the 22d and 29th March was employed in obtaining information as to the names of parties in the suspected villages, and that however true it may be that the robbery was effected by some of their inhabitants there is not a particle of trustworthy evidence by which the actual commission of the crime can be brought home to these prisoners. -

8 The Foujdaree Udalut therefore resolve to annul the Sentence passed and direct that all the Prisoners be, in this case, acquitted and released. -

9 The Prisoners in this case have been fully and properly convicted of rescuing from the hands of the Police two individuals who had been apprehended by them on the charge of highway robbery. - No 60.

10 It would appear from the record in No 61 that these parties had been accused under circumstances well calculated to excite indignation and provoke resistance, but this could not excuse their conduct on this occasion, and they have been rightly punished. -

11 Upon three of these Prisoners 1, 2, and 6

no Sentence was passed by reason of another conviction against them in No 61 which has now been set aside by the Foujdaree Udalut. -

12 Upon their conviction in this case the Foujdaree Udalut resolve to authorize the Acting Session Judge to issue his warrant for their imprisonment for one year with hard labor in irons.

Precept returnable in 5 days.

Ld 18.D.

C. Chamier

F. M.

Tuesday,
12th October 1858. At a Court of the Fouzdaree Adalut.

Present.

G. S. Hoopin Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read again Calendar of Case No. 64 of 1858 on the file of the Sessions Court of Bellary.

(Hereunto F. Ila No. 1696 of 1858)

Read also return dated the 16th ulto, from the Sessions Judge of Bellary, to the precept of the Fouzdaree Adalut under date the 11th idem, suggesting reduction of the sentence passed on the first and second Prisoners in Case No. 64, and directing that if he does not concur in the reduction, a translation of the record be submitted.

(Hereunto F. 16. No. 1748 of 1858)

Read also letter dated the 29th ulto, from the Sessions Judge

C. R. Chamier

Judge of Bethany, submitting a translation of the record aforesaid.—

(Here enter F.M.C. N° 1886 of 1858)

A consideration of this record does not remove the impression, conceived by the Tonjidana Adalat from a perusal of the Calendar, that the sentence passed might with propriety be much mitigated. The Prosecutor and the Prisoner had a dispute relative to the performance of certain rites, but the animosity engendered thereby is not described as being such as would lead the one to compass the death of the other; nor indeed is it likely that it would. The feelings of the Prisoner seem to have been greatly excited by their opponents coming in force to exercise the contested privilege; but even then it does not appear that the Prisoner originally intended to do more than defend by a display of arms; he made no attack upon Prosecutor,

used

used no unconditional threat, only saying he would use his weapon if Prosecutor attempted to force his way, which he may fairly be presumed to have expected he would not do. When, however, the Prosecutor defiantly and tauntingly sought to pass, he also evidently expecting that the sword would not be actually used, the Prisoner made a cut at him, aimed it is said at his head, but which fortunately lighted on his arm.—

2. Under such circumstances, the Court consider there are not sufficient grounds for presuming a determined purpose to kill, though the act evidenced at least a momentary desire to do grievous bodily harm, or perhaps an entire recklessness of consequences. On the whole however, they are satisfied that imprisonment for three years in the case of the 1st Prisoner, and three months in that of the 2d, will adequately meet the demands

of

12th October 1858

of quation in the case, and therefore resolve to direct that their respective sentences be mitigated accordingly.

Precept returnable in III days. — N

Ex & Exn.

C. J. Chance

Wednesday,

13 October 1858.

F. M.

At a Court of the Foujdaree Adalut

Present

G. S. Cooper Esquire ..
T. L. Strange Esquire .. } Puisne Judges.
C. R. Baynes Esquire

Read Letter dated 30th Ultimo, from the Session Judge of Musulipatam, requesting permission to re-open the case No 58 of 1858 for the purpose of taking further evidence.

(Henc enter F. M. No 1871 of 1858)

After hearing the evidence for the prosecution and the defence of the prisoners in this case, the Session Judge has doubts for which he alleges most solid and satisfactory grounds, and which would therefore necessitate an acquittal. Under these circumstances he requests permission to be allowed to re-open the case and take further evidence on a collateral point, which he thinks will

C. J. Chance

will punish a test for judging of the truth or falsity of the evidence now before him

2. Even allowing that such a course be practicable, the Court, in the present instance, do not consider it proper or expedient. The point on which the Session Judge chiefly desires to procure further evidence, is the alleged fact of the existence of four bonds under which the prisoners were indebted to the prosecutor and which are said to have been stolen; but supposing that this were proved, the Court do not consider that the inference would be conclusive against the prisoners in the face of the great suspicion which, in the opinion of the Session Judge, attaches to every part of the evidence

3. The Session Judge will therefore proceed to judg-

ment

-ment on the record.

Read letter dated 30th Ultimo, from the Agent to the Governor at Ganjam, submitting a report on case No. 13 of 1858 and recommending that the prisoners be sentenced to 5 years' imprisonment with hard labour in irons.

(Convention P.C. No 1909)

The Court of Foujdaree Udalut concur in convicting the prisoners in this case, and direct that they be sentenced to 5 years' imprisonment each with hard labour in irons, as proposed by the Agent.

E. Ball. C. A. Chamier

Thursday,

14th October 1858.-

F. A.

At a Court of the Fouzdaree Adalut

Present

G. S. Harper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read again -

Calendar of Case No. 78 of 1858 on the file of the Session Court of Bellary.-

(Here enter F. A. No. 1823 of 1858)

Read also Return dated the 4th Instant, from the Session Judge of Bellary, to the precept of the Fouzdaree Adalut under date the 30th September last, calling for an explanation as to 3 prisoners being mentioned in the sentence of case No. 78 on the Sessions file for 1858, whereas only two are named in the 2nd Column of the Calendar.

Here

14 October 1858

(Head enter J. M. No 1913 of 1858)

As herein recommended the Court of Sanjdaree Adalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin in mitigation of the sentence passed upon them in the said case

Read Calendar of case No 79 of 1858 of the Session Court of Madura

(Head enter J. M. No 1918 of 1858)

The Court of Sanjdaree Adalut observe that the sentence is drawn up defective by. The Session Judge should state why the evidence is considered by him incredible and the charge not got up through malice.

Precept

14 October 1858

1. Madigu D. Saabadoo
2. Edeya Chinna Ganoovadoo
3. Madigu Ganda

7 years

Messrs Hooper and Strange

Precept returnable in III days.

Read Miscellaneous Petition presented on the 23 August by Sygatoo Naiken and Ganna Comaden, Pillah Coimbatore.

(Head enter J. M. P. No 133 of 1858)

1. Petitioners appeal from the order of the Session Judge under date the 7 July 1858, confirming the sentence of the Principal Sudder Ameen in Criminal case No 142 of 1858, in which the Petitioners were 1st and 2d prisoners.

2. The Court observe that the allegation made against the accused does not involve a penal offence. The taking money corruptly in order to suppress a felony constitutes the offence of compounding felony, but in this instance, it is not with taking money for such purpose that the

the prisoners are charged, but with having offended it.—

3. The Court resolve to cancel the sentence passed upon the prisoners, and to direct their release.—

Precept returnable in 11 days.

Read again Miscel. Various Petition

Read Miscellaneous Petition presented on the 23 July, by J. W. Branson Esquire, Pleader on behalf of Kathyat Jagathan Vetel Carnaven Nambiar, of Tellah Calicut.

(Encounter F. M. P. No 113 of 1858)

1. Petitioner appeals from the order of the Session Judge under date the 13 June 1858 confirmatory of the one passed by the Acting Head Assistant Magistrate directing delivery to Karakkatedathil

Messrs Hoss and Strange

Karakkatedathil Caranaven Nambiar of the timber forcibly and clandestinely felled by him from the Vellachpanymatta Forest belonging to Petitioner.—

2. The Court of Foujdaree Adalut see no reason to question the propriety of the order appealed from, and accordingly reject this Petition.

Read Miscellaneous Petition presented on the 30 August 1858, by J. W. Branson Esquire, Pleader on behalf of B. Narasimha Shanty Pantulu, late Pishcar of Bickavole Talook in the Tellah of Rajahmundry

(Encounter F. M. P. No 143 of 1858)

Petitioner appeals from the order of the Session Judge under date the 22 April 1858 confirming the decision of the Magistrate dated the 5 March preceding whereby

whereby that officer convicted the Petitioner of assault and sentenced him to pay a fine of 50 Rupees, commutable in default, to 15 days imprisonment in the Zillah Jail.

2. Before passing a final order on the petition the Court of Foujdaree Adalut resolved to call upon the Session Judge to forward a translation of the Record connected with the case in question.

Precept returnable in X days.

Read Miscellaneous Petition presented on the 11th August, by Messrs P.B. Norton and J.M. Branson, Pleaders on behalf of Venkatasawmy Naik, of Zillah Madura.

(Entered F.M.P. No 127 of 1858)

1. Petitioner appeals from the proceedings of the Acting Session Judge under date the 31st March 1858, confirming the order of the Joint Magistrate dated the 18th December

1857

1857, whereby that officer directed the reopening of the new channel, dug by Goroowappah.

2. The Court observe that the proceedings held in this case are irregular from the beginning. They are based upon an investigation held by the Head of Police into a question of disputed right of irrigation, a matter lying entirely beyond his cognizance.

3. The Court resolve therefore to quash the above proceedings, leaving any party having rights to pursue in the matter, to seek redress through the proper legal channels.

Read petition presented on the 2nd Ultimo, by J.M. Branson Esquire, Pleader on behalf of Ramasawmy, 8th prisoner in case No 19, and 12th prisoner in case No 20 of 1858 on the file of the Session Court of Madura.

(Entered F.M.P. No 147 of 1858)

Read

Read also petition presented on the same day, by the same Pleader, on behalf of Sankara Maatya Pillay, 7th prisoner in the above case.

(Encenter F. M. P. No. 1148 of 1858)

Read also petition presented on the same day, by the same Pleader, on behalf of Meyappen Serwy, 9th prisoner in case No. 20 aforesaid.

(Encenter F. M. P. No. 1149 of 1858)

Read also Petition presented on the same day, by the same Pleader, on behalf of Singappa Pillay and another, 8th and 10th prisoners in case No. 20 aforesaid.

(Encenter F. M. P. No. 1150 of 1858)

Before finally disposing of the foregoing Petitions, the Court of Foujdary Adalut resolved to direct the Acting Sessions Judge of Madura to submit an English translation of the record of trial in the cases above referred to.

Precept returnable in X days.

Read Miscellaneous Petition presented on the 16th August 1858, by Calabanga Seetarama Dutchatalo, of Zillah Chicacole.

(Encenter F. M. P. No. 1291 of 1858)

1. Petitioner enters into a detailed account of circumstances which he considers indicative of systematic fraud and collusion on the part of the judicial servants at Chicacole in reference to the subject matter of Original Suit No. 35 of 1855 (Appeal Suit No. 48 of 1856 Sudder Adalut) and concludes by praying either that a Commission may be appointed to enquire into those circumstances, or that Mr. Glass, the Civil Judge, or his protege Chinta Jagunnadhem, the present District Moonsiff of Chicacole, with his adherents according to the list annexed to the petition, may be removed to other Zillahs under Minutes of Consultation dated the 2nd October

14th October 185

October 1852 and 7th February 1854, as the best and most effectual means of breaking up their combination.-

2. The Foujdaree Adalut resolve to forward the documents Numbers 1, 2, 3, 4 and 8 produced with the petition, to the Civil Judge of Chicacole, and to request that officer to ascertain from Chinta Jagunnadhem and the other official persons named therein whether the same are genuine.

Precept returnable in V days. vs

Ex. Ded.

C.S. Chamier

F. 66.

Saturday 16th October 1858.

At a Court of the Foujdaree Adalut

Present

G. S. Hooper Esquire, —
J. L. Strange Esquire, — } Puisne Judges.
C. R. Baynes Esquire, —

Read letter dated 8th October 1858, from the Sessions Judge of Chittoor, submitting for the final judgment of the Foujdaree Adalut the record of case No. 60 of 1858 on the Calendar of the Sessions Court.

/Here enter F. 66. No. 1896 of 1858./

Mr. Hooper. The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoner,

Venkatuppah

is not convicted on presumptive proof, or on the evidence of credible witness, or on his own confession, of the crime charged, do acquit him therefor;

but

but considering that strong suspicion, though not amounting to conviction, attaches to him, they direct that he be required under clause sixth, Section II, Regulation XV of 1803, to find 2 sureties in 50 Rupees each surety for his good behaviour and appearance when required within three years, and on that in default thereof he be detained for three years in confinement.-

Read letter dated 13th October 1858, from the Sessions Judge of Chittoor, submitting for the final judgment of the Faujdarree Udalut the record of case No. 61 of 1858 on the Calendar of the Sessions Court.-

/Here enter F.D. No. 1926 of 1858./

Mr. Baynes. The Court of Faujdarree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

1st Govindoo

is

is sufficient to convict him of the Housebreaking and Theft offence charged, do convict him thereof and under the provisions of Section XXI, Regulation VII of 1802, 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 (7) seven years, and to pay a fine of Rupees 261-14 under Act XVI of 1850.-

Mr. Baynes. The Court of Faujdarree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

3d Gellummay,

is sufficient to convict her of the Receiving stolen property offence charged, do convict her thereof and under the provisions of Clause 2d Section IV Regulation VII of 1822, sentence her to be imprisoned and kept to labor suitable to her sex, for and during the period of one month, the term of her imprisonment being calculated from the 25th September 1858.-

E. Ball. C. Chamier

F. C.

Monday 18th October 1858. At a Court of the Foujdaree Udalut

Present

G. S. Hooper, Esquire
T. L. Strange, Esquire
C. R. Baynes, Esquire
} Puisne Judges

Read letter, dated 5th October, from the Session Judge of Nellore, submitting copy of correspondence &c. between the Magistrate and the Inspecting Post Master.—

(Here enter F. C. No. 1883 of 1858)

By desire of the Magistrate of the district the Session Judge of Nellore requests the opinion of this Court on a question, that has arisen between the Magistrate and Post Master General, as to the correct construction of Section LXIV of Act XVII of 1854 (the Post office Act) which provides that no proceedings for the recovery of certain fines shall be taken without the order of

of Government or of a Post Master General; the Magistrate being of opinion that the intention of the Legislature was that no prosecution for the offences in which such fines would be the penalty should be commenced except by order of the Government or Post Master, while the Post Master General considers that this order is not required to sanction the institution of the prosecution, but to authorise the collection of the fine after it has been imposed by the Magistrate.—

2 The Judges of the Foujdaree Adalut have no doubt that the expression "proceedings for the recovery of such fine", employed in the Section above quoted, was intended to be understood in its usual legal acceptation, namely, prosecution for recovery of penalty incurred by act specified.—

3 Taken in this sense, the wisdom of the legislature is apparent. It does not allow the Subordinate servants

18th October 1858.

servants of the Post Office to be annoyed or interrupted in their duties by accusations of the nature in question, at the instance either of the public generally, or even of their own fellow servants; but if the interpretation contended for by the Post Master General is to be accepted, it would tend to bring the Magistrates' tribunal into contempt, as any one might compel its action, and after conviction and sentence it would remain with the Post Master General to determine whether the punishment should be inflicted. The Judges would further observe that had the legislature intended what the Post Master supposes, the words of the Section would have run "no such fines shall be levied."

Read Calendar of Case No. 52 of 1858 of the Sessions Court of Salem.

/Here Enter F. Re. No. 1928 of 1858/

The Court of Foujdaree Adalut.

Udalut desire to be informed whether this case presents any aggravating features which have led the Sessions Judge to consider the maximum amount of punishment necessary, and if not, whether he considers that a period of 7 years' imprisonment will not suffice to meet the ends of Justice.—

Precept returnable within III days from and after its receipt.—

Read again petition presented on the 2d ultimo, by J. W. Branson Esqre. Pleader on behalf of Ramasamy, 8th prisoner in Case No. 19 and 12th prisoner in Case No. 20 of 1858 on the file of the Sessions Court of Madura.—

(Here enter F. M. D. No. 147 of 1858)

The Court of Foujdaree Udalut, Mr. T. L. Strange and Mr. C. R. Baynes with reference to their order dated 14th Instant, resolve to direct the Acting Sessions Judge of Madura to suspend execution of his sentences in Cases Nos. 19 and 20 of 1858, until further

orders.—

Precept returnable within II days from and after its receipt.—

Read again Miscellaneous Petition presented on the 9th August 1858, by J. D. Mayne Esqre, Pleader on behalf of Chullah Lutchmiah and others of Zillah Nellore.—

(Here enter F. M. D. No. 122 of 1858)

Read also return dated 17th September 1858, from the Sessions Judge of Nellore, to the precept of the Foujdaree Udalut under date the 6th idem, calling for Translation in Calendar case No. 5 of 1858.—

(Here enter F. M. No. 1765 of 1858)

Mr. T. L. Strange and Mr. C. R. Baynes

The Court of Foujdaree Udalut observe that from the report of the village Moonsiff, the deposition of that individual before the Sessions Judge as the 7th witness, the Statements made by the 2d-5th and 6th witnesses before the police, and the date of arrest as given in the calendar, the 1st prisoner

was

was not arrested at the same time as the 5th, though found in his company and known by the 2d witness to have been one of the robbers. The Court find that when examined before the Sessions Judge the 2d 5th and 6th witnesses deposed that the above two prisoners were arrested together. This, from the previous statement above cited, the Court judge not to have been the fact, and if the 1st prisoner was not arrested when thus found with the 5th, the identification of him by the 2d witness becomes very questionable.

2 As it does not appear that the Sessions Judge's attention has been called to the above point, the Court resolve to direct that he will take it into consideration, re-opening the investigation as far as may be necessary in order to clear up the difficulties surrounding the matter. On having satisfied himself on the subject, the Sessions Judge will be pleased to communicate to the Court the opinion he may have

have formed thereon as bearing upon the credibility of the evidence brought against the prisoner, together with the fresh proceedings that may be held by him.—

Precept returnable within XV days from and after its receipt.—

Read Miscellaneous Petition presented on the 2d September 1858, by J. B. Norton Esqre Pleader, on behalf of Acharu: Coondoo of Zillah Cuddapah.—

(Here enter F. M. D. No. 146 of 1858)

Mr. T. E. Strange / and Mr. C. R. Baynes

Petitioner complains of the sentence passed upon him as 2d prisoner in Case No. 57 of 1857 without the examination of the witnesses cited by him, but who were dispensed with by the lower Court without the petitioner waiving their testimony.—

2 Before disposing of this Petition, the Foujdaree Adalut resolve to call upon the Sessions Judge to state whether any witnesses were cited by the 2d prisoner, if so, whether they appeared,

and

and why they were not examined. Should they have been dispensed with without the recorded permission of the Petitioner, the Session Judge will re-open the case, take their examinations, and pass a revised judgment.—

Precept returnable within X days from and after its receipt.—

Read letter under date the 21st ultimo, from the Session Judge of Chicacole, forwarding English translation of the record of Case No. 9 of 1858 on the Calendar of the Session Court, for the final judgment of the Court of Foujdaree Udalut.—

(Here enter F.R. No. 1893 of 1858)

The Court of Foujdaree Uda. lut, on a deliberate consideration of all the circumstances of the Case in evidence before them, being of opinion that the proof against the prisoners,

1st Allumsetty Appiah

and

2d Sopaty Lutchegaudoo

is sufficient to convict them of the offence charged

Mr. G.S. Hooper
Mr. C.R. Baynes

18th October 1858.

charged, do convict them thereof; and under the provisions of Section X, Regulation VIII of 1802, sentence them to suffer death by being hanged at the usual time and place of execution.—

And being of opinion that the prisoner,

3d Canakum Appiah

is not convicted on presumptive proof, or on the evidence of credible witnesses, or on his own confession, of the crime charged, do acquit him thereof; but considering that strong suspicion, though not amounting to conviction, attaches to him, they direct that he be required, under Clause Sixth, Section II, Regulation XX of 1803, to find 2 sureties, in 200 Rupees each surety, for his good behaviour and appearance when required, within three years; and that in default thereof, he be detained for three years in confinement.—

E. Edd.

C.S. Chamier

F. C.

Tuesday 19th October 1858.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire,
J. L. Strange Esquire, } Puisne Judges.
C. R. Baynes Esquire,

Read Calendar of Case No. 69 of 1858 on the file of the Sessions Court of Bellary.-

(Here enter F. C. No. 1902 of 1858.)

As herein recommended, the Court of Foujdaree Adalut resolve to authorize the Sessions Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

* Nelagandoo ..... 7 years.

Read Calendar of Case No. 32 of 1858 on the file of the Sessions Court of Coimbatore.-

(Here enter F. C. No. 1904 of 1858.)

As herein recommended, the

the Court of Foujdaree Udalut re-
solve to authorize the Sessions Judge
to issue his warrant for the imprie-
sonment of the prisoners for the
period specified in the margin, in
mitigation of the sentence passed
upon them in the said case.-

Pullycarawa Chinnaw. 8 years.

Read Calendar of Case
No. 58 of 1858 of the Sessions Court of
Calicut.-

/Here enter S. D. No. 1925 of 1858./

1. The Court of Foujdaree
Udalut are of opinion that a sentence
of 7 years' imprisonment with hard
labor in irons will be adequate punish-
ment for the offence of which the
Prisoner in this case has been con-
victed, and they resolve to call
upon the Sessions Judge to reduce
his sentence accordingly.-

2. If unable to concur
with the Court in the propriety
of the mitigated sentence now pro-
posed, the Sessions Judge will be
pleased

19th October 1858.-

pleased to submit an English trans-
lation of the entire Record of the
case, for their consideration.-

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

C. Chamier

Ex. Asst.

F. C.

Wednesday 20th October 1858.

At a Court of the Fouzdaree Adalut

Present

G. S. Hooper Esquire,
J. L. Strange Esquire, } Puisne Judges.
C. R. Baynes Esquire,

Read Calendar of Case No. 14 of 1858, on the file of the Sessions Court of Guntoor.-

(Here enter F. C. No. 1938 of 1858.)

As herein recommended, the Court of Fouzdaree Adalut resolve to authorize the Sessions Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.-

1st Joonalacher = la Nullagopaya = eight years.
2nd Pundana = Sayena Byra = Iyer. = seven years.

Read Calendar of Case No. 84 of 1858 on the file of the Sessions Court of Bellary.-

(Here enter F. C. No. 1950 of 1858.)

As herein recommended, the

the Court of Sanjidarre Adalut re-
solve to authorize the Sessions
Judge to issue his warrant for
the imprisonment of the prisoners
for the period specified in the
margin, in mitigation of the sen-
tence passed upon them in the
said case.-

1. Vedda Tinda-nadoo.
2. Vedda Nan-gadoo.
7 years.

Read Criminal Reports
for the month of August 1858, submit-
ted by the Sessions Judge of Coimbatore.

/Here enter J. C. No. 1927 of 1858./

1. Sentence in this case
should have been passed under
Section XIII, Regulation XIII of 1832, which
specially provides for this offence -
with which the prisoner was charged.
Under this regulation the Court have
ruled that irons cannot form part
of the sentence, which will therefore
be amended with reference to these
remarks.

Magistrate's Calendars No. 3. Malicious killing of Cattle.

2. It is requested that
these reports may be forwarded
at

20th October 1858.

at an earlier date in future.-

Ed Edd.

C. S. Chamier

F. 66.

Friday. 22nd October 1858. At a Court of the Fouzdaree Adalut.

Present

G. S. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read Criminal Reports for the month of September 1858, submitted by Session Judge of Nellore.

/Here enter F. 66. No. 1933 of 1858./

The prisoner in this case appears to be an habitual thief, and the court are of opinion that the sentence is too lenient.

No. 185.

Ex. Ellr.

C. S. Ramier

F. 116.

Saturday 23rd October 1858.

At a Court of the Foujdaree Adalut

Present

G. S. Cooper Esquire — Sessions Judge.
J. Lo. Strange Esquire —
C. Re. Baynes Esquire.

Read Petty Calendars of the Magistracy for the 2nd Quarter of 1858 submitted by the Sessions Judge of Bellary.-

/Here enter F. 116. No. 1913 of 1858./

The Court have to remark on the great delay that has occurred in forwarding these Calendars, both in the Magistrate's office and in the Sessions Court.-

Read letter from the Sessions Judge of Combacorum with reference to Proceedings of Foujdaree Adalut of the 1st October held on the criminal reports for the month of August.-

/Here enter F. 116.- No. 1907 of 1858./ In

Case No. 81.

1. In this number the Court were under the impression that the party charged in the 2d Count was an accomplice of the first-mentioned prisoner, in which case the remark of the Court in their former proceedings would have been applicable. The Court are of opinion that the fact of the party having been employed to carry the wood in question to the police station should have appeared in the indictment.

Magistrate's Calendar No. 11.

2. With reference to the second case the Court have to observe that it was not ruled by them in their proceedings above quoted that no neglect on the part of a public officer to perform the duties incumbent on him could form grounds for a criminal prosecution, but they desired to point out to the Magistrate that the indictment was defective in as much as it did

23rd October 1858.

did not charge the party with the wilful neglect of his duty, which was essential to constitute a criminal offence the mere omission without wilful or corrupt motives not being criminally punishable under the Mahomedan law which agrees with the English law in this respect.

C. S. Cleveland

W. B. D.

F. M.

Monday 25th. October 1858.

At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esquire,
J. S. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read again Miscellaneous Petition presented on the 28th. July last, by Coolly and Chinny, of Zillah Salem.

/Here enter F. M. D. No. 131 of 1858./

Read also return dated 25th. ultimo, from the Acting Session Judge of Salem, to the precept of the Foujdaree Adalut under date the 15th. idem, calling for a translation of the evidence in Case No. 10 of 1857 from the sentence in which an appeal had been preferred to the Foujdaree Adalut.

/Here enter F. M. No. 1342 of 1858./

Mr. Baynes

The Foujdaree Adalut consider the evidence wholly insufficient for the conviction of the Prisoners. The

Session

F. No.

Monday 25th October 1858.

At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esquire,
J. S. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read again Miscellaneous Petition presented on the 28th July last, by Coolly and Chinny, of Zillah Salem.

/Here enter F. M. P. No. 131 of 1858./

Read also return dated 25th ultimo, from the Acting Session Judge of Salem, to the precept of the Foujdaree Adalut under date the 15th idem, calling for a translation of the evidence in Case No. 10 of 1857 from the sentence in which an appeal had been preferred to the Foujdaree Adalut.

/Here enter F. No. No. 1842 of 1858./

Mr. Baynes / The Foujdaree Adalut consider the evidence wholly insufficient for the conviction of the Prisoners. The

Session

Session Judge admitting the case to present difficulties, considers them to have been removed in the course of the investigation; but in the opinion of the Court they have not been satisfactorily cleared.

2. Under the circumstances the Judges cannot think it safe to carry the case against the prisoners further than it is proved by testimony, independent of that given by the Prosecutors, whose statement they hold liable to much suspicion and as requiring the fullest corroboration. The facts so established are that a party of drunken Coravers, got into a quarrel with the Prosecutors and their party; that an affray took place; that the Village Moonsiff was summoned and came; that he took this view of the case and contented himself with dispersing the crowd; that the Prosecutors afterwards lodged a complaint of robbery, and, as a necessary accompaniment, declared that the Moonsiff was

25th. October 1858.

was in collusion with the robbers, of which there does not appear to be any proof; tho' by assuming it the Session Judge virtually begs the whole case. On the evidence of the Prosecutors, as already remarked, the Court cannot rely; their assertions that they accidentally went into the very pit where the robbers were laying in wait, that after completing the robbery the offenders waited till the Moonsiff was summoned and came to the spot; that 1st. Prosecutor was then begging restoration of their property &c. are most improbable; and it may be remarked that 1st. Prosecutor, tho' identifying Prisoner, cannot say if they were drunk, or whether it was light or dark at the time; while 2d. Prosecutor says they were drunk, some too drunk to escape, and admits that the Moonsiff came when sent for. The 3d. Prosecutor was allowed to leave for the avowed purpose of summoning the Moonsiff; it was

dark

dark he says when he returned with
him, but still the Criminals were &c
waiting, a circumstance which is
accounted for by the Judge by sup-
posing them to have done so from
motives of policy, an assumption which
appears to the Court unwarranted
and improbable, and inconsistent
with their collusion with the Incon-
siff, whom they would naturally,
in that case, wish to exempt from
unnecessary imputation and danger.
The 2d witness, who came to the spot,
appears to have regarded the matter
as a drunken affray, and there
is no evidence to the contrary.

3. The fact that property &c
found in 1st Prisoner's house and &c
claimed as his own, was by the neg-
ligence or connivance of a peon, who
has been therefore punished, allowed
to be taken away, is calculated, of
course, to beget a suspicion; but it is
by no means conclusive against
the Prisoners, and the Court &c
therefore

therefore direct that they be acquitted
and released.

Precept returnable within
2 days.

Read Criminal reports
for the month of September, submitted
by the Session Judge of Chittoor.

[Here enter J. No. No. 1955 of 1858.]

Magistrate's Report
No. 2.
Offence under
Post office Act.

On reference to the date on
which the offence in this case was &c
committed and the date on which the
party was apprehended, it would ap-
pear that the prosecution was com-
menced by the Magistrate before he had
received instructions either from Govern-
ment or the Post Master General to do
so. The Court would point out that
Section LXIV of the Post Office &c
Act provides that no proceedings shall
be taken for the recovery of fines im-
posable in certain cases, that is to say
in those punishable by fine only, for the
levy of which provision is made in &c
Section LXII, except by order of Government,

or

or the Post-Master General; and the Court are of opinion that the course of proceedings contemplated by the Legislature in such cases is that the party aggrieved, or the informer, should lay his information in the first instance before the Post-Master General, who will then institute the prosecution of the offender if he think proper, and that until brought before him in this manner, the Magistrate should receive no complaints of, or take any steps in, the prosecution of offences of the nature referred to in the section above quoted.

The fine, if levied, should be refunded.

E & C.

C. S. Chance

F. No.

Tursday. 26th October 1858.

At a Court of the Foujdaree Adalut.

Present.

G. L. Hooper Esquire,
J. Le. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read Calendar of case No. 57 of 1858, on the file of the Session Court of Nellore.

(Here enter F. No. No. 1965 of 1858.)

As herein recommended, the Court of Foujdaree Adalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.

1. Banala Papadu.
2. ...do... Narasigadu.
3. ...do... Mutligadu.
4. ...do... Satchigadu.

Ten years.

Read Calendar of case No. 59 of 1858, on the file of the Session Court of Nellore.

(Here enter F. No. No. 1974 of 1858.)

As herein recommended,

the

the Court of Foujdaree Adalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said Case.

Chillakuri Sitaramiseddi

Ten years.

Read letter dated 2d October 1858, from the Session Judge of Chittoor, submitting for the final judgment of the Foujdaree Adalut, the record of Case No. 62 of 1858 on the Calendar of the Session Court.

(Here enter F. Rc. No. 1894 of 1858.)

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

Mr. Hoop

Cundappah

is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of

26th October 1858

of Clause second, Section XV, Regulation VII of 1802, 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 (5) five years.

C. F. Chamier

Ed. Reg.

F Uc

Wednesday
27th October 1858

At a Court of the Foujdaree Udalut.

Present

G. L. Hooper Esqre
T. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges

Read Criminal reports for the month of September 1858 submitted by Sessions Judge of Chicacole.—

/ Here enter F Uc. No. 1987 of 1858 /

In this case the prisoner was convicted of receiving in person from a European soldier certain articles knowing the same to be regimental necessaries, and was sentenced to pay a fine of fifteen rupees, or in default of payment to be imprisoned for two months.— The Court would point out that regulation XLV of 1832, which provides for the punishment of parties receiving or purchasing regimental necessaries from soldiers, leaves no discretion to the judge as to the penalty which is to be imposed which is fixed in section II to be forty rupees fine for every offence commutable under section III if not paid to imprisonment for three months.—

C. Chamier

Principal Sudder Ameen of Vizagapatam No. 17, Receiving regimental necessaries.—

Ex. Bld.

F. U.

Thursday 28th October 1858.

At a Court of the Foujdaree Udalut.

Present

G. L. Hooper, Esquire
T. L. Strange, Esquire
C. R. Baynes, Esquire
} Puisne Judges.

Read Miscellaneous petition presented on the 20th September 1858, by Mr. H. B. Saunders, Pleader on behalf of Jaggoloo Pillay, of Tillah Timerelly

/Here enter F. M. D. No. 165 of 1858/

This is a petition for review of this Courts

Mess^rs Hooper and Baynes. 1 orders under date the 16th November 1857

The Court of Foujdaree Udalut

2 see no reason to re-consider the orders in question, and accordingly reject this petition.

Read Criminal reports for the months of September, submitted by Sessions Judge of Rajahmundry.

/Here enter F. U. No. 1986 of 1858/

No. 86 Purchasing Soldiers' necessaries.

The Court are of opinion that sions cannot be imposed under the Regulation quoted; that part of the Sentence will therefore be cancelled.

Read

28th October 1858.

Read letter dated the 5th instant from the Session Judge of Nundiwal.

/ Here enter F. U. No. 1910 of 1858 /

In this communication the Session Judge reports that, while engaged in the trial of Case No. 3 of 1858, he had occasion to refer to the record of Case No. 24 of 1857, the prisoners in which were sentenced by the Fouzdaree Udalut, on the report made by the Agent, to four years' imprisonment; and that seeing reason to question the credibility of the evedence on which the conviction was founded, he has thought it his duty to forward to the Court a translation of the record, in order that the Judges may consider and determine whether the conviction can be upheld.

2 The Court of Fouzdaree Udalut consider that the Session Judge has shown sufficient grounds for distrusting the evidence upon which the prisoners have been convicted, and that had these been made apparent in the letter of the officiating Agent, the conviction would not have been obtained. The Court therefore resolve to set aside the sentence passed, and direct that the prisoners be immediately released.

3 The Court notice with approbation the care and zeal which the Session Judge has evinced in this matter.

Read

28th October 1858.

Read letter from the Acting Session Judge of Cuddalore, forwarding a Petition from John Hinze Prisoner in Case No. 24 of 1857, on the Calendar of the Session Court of Salem praying for a remission or mitigation of the sentence passed on him by the Fouzdaree Udalut in that case.

/ Here enter F. U. No. 1989 of 1858 /

The Court of Fouzdaree Udalut see no reason to alter the sentence passed on the Petitioner, and accordingly reject his Petition.

Read Miscellaneous Petition presented on the 4th October 1858, by J. B. Norton Esquire, Pleader on behalf of G. F. Fischer Esquire, of Tillack Madura.

/ Here enter F. W. P. No. 164 of 1858 /

Messrs. Harper and Baynes.

1 Petitioner complains of an order by the Acting Session Judge declaring "that parties desirous of petitioning the Session Court must either do so in person or through one of the authorized pleaders of the Court," under the operation of which he, petitioner, was refused audience as the "duly authorized Agent" of an appellant from the sentence of a Joint Magistrate.

2 The Petitioner contends that such refusal is contrary to law and usage, and must

operate

operate as a hardship on prisoners or accused parties who may not have the means of retaining a professional advocate.

3 The Court of Fujdaree Udalut are of opinion that it was not competent to the Acting Sessions Judge to make the declaratory order in question which in effect goes to abrogate the beneficent intentions of the legislature, and as a general rule deprives the subjects of the State of a privilege, which it appears to the Court it was intended they should usually, and except in special cases, and for reasons given, be allowed to enjoy. The special case should be the exclusion not the admission.

4 The Court would also point out to the Acting Sessions Judge that the Act quoted by him had merely in view provision of defenders for parties under trial, and cannot be construed as respecting the privilege heretofore enjoyed by convicts and other appellants of presenting their petitions through the Agency of a duly authorized Agent or Mookteear.

5 They resolve therefore to annul the order of the 25th August 1858 now appealed against, observing that petitioner's own exclusion being under that order has no personal reference, and that should the Court decline to

to hear him on any future occasion it must be not in general, but on particular grounds, duly set forth.

Read letter dated 29th September 1858, from the Sessions Judge of Rajahmundry, submitting for the final judgment of the Fujdaree Udalut, the record of case No. 19 of 1858 on the Calendar of the Sessions Court.

/ Here enter F. U. No. 1993 of 1858 /

The Court of Fujdaree Udalut, on a deliberate consideration of all the circumstances of the case in the evidence before them, being of opinion that the proof against the prisoner

Sonkerla Somalingum.

is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of Section X. Regulation VIII. of 1802, sentence him to suffer death by being hanged at the usual time and place of execution.

Read Miscellaneous Petition presented on the 23d September 1858, by J. W. Branson Esquire, Pleader on behalf of Mookapoory Cowdersha routtee and others, of Zillah Madura.

/ Here enter F. W. P. No. 162 of 1858 /

Petitioners pray that their Counsel may be heard in their behalf before this Court shall pass any orders in case No. 64 of 1858, which they

Messrs Hooper and Burgess

have

28th October 1858

have remanded on the 18th August last to the Sessions Judge of Madura for further investigation and sentence denovo.—

2 No return having been received from the Sessions Judge, no order is necessary on this petition — S

Ex Dell. C S Chamier

Friday
29th October 1858.

F. U.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read letter from the Session Judge of Cuddapah dated 18th October 1858, with reference to matter entered in the monthly Criminal reports by the Subordinate Judge.

/Here enter F. U. No. 1979 of 1858/

With reference to the subject of this letter the Court have to remark that the Session Judge not only has the power, but that it is also his duty to correct irregularities of the description now brought to their notice.—

Read letter from the Session Judge of Chittoor under date 18th October 1858.

/Here enter F. U. No. 1954 of 1858/

The Session Judge of Chittoor submits for the opinion of the Court whether, with reference to Section LXIV of Act XVII of 1854, the A report of cases disposed of under the act should be at once submitted to the Session Judge,

or

29th October 185

or whether this should be delayed until the order of the Post Master General sanctioning the recovery of the fine shall have been received.

2. The Court have to observe that this reference appears to have arisen from a misconception on the part of the Session Judge of the meaning of the Section above quoted. For an explanation on this point the Court would refer the Session Judge to the proceedings of the Court held on the criminal reports of his district for the month of September, and to their late ruling on the same subject, a copy of which is now forwarded for his information.

Ed Reg. C S Chamier

F. U.

Saturday 30th October 1858

At a Court of the Foujdaree Udalut

Present

G. S. Hooper, Esquire
J. L. Strange, Esquire
C. R. Baynes, Esquire
} Puisne Judges.

Read letter under date the 14th instant, from the Session Judge of Calicut, forwarding English translation of the record of Case No. 161 of 1858 on the Calendar of the Sessions Court, for the final judgement of the Court of Foujdaree Udalut.

(Here enter F. No. No. 2001 of 1858)

The Court of Foujdaree Udalut,

Mr. G. S. Hooper
Mr. J. L. Strange

on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

Thindalattan Pookattodyil Nambon.

is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of Section X. Regulation VIII of 1802, sentence him to suffer death

deaths by being hanged at the usual time and place of execution.—

Exd Eaad.

C. A. Chamier

F. C.

Monday 1st November 1858.

At a Court of the Fouzdaree Adalut.

Present

G. S. Hooper Esquire—
T. L. Strange Esquire—
C. R. Baynes Esquire
} Puisne Judges

Read letter dated 21st October 1858, from the Acting Sessions Judge of Madura, submitting for the final judgment of the Fouzdaree Adalut the record of cases Nos 72 and 80 of 1858 on the Calendar of the Session Court.—

/Here enter F. C. No 2008 of 1858./

Messrs Hooper and Strange.

The Court of Fouzdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the prisoners,

1st Annachellum Pillay
2d Moottoocurpen alias Chinnapial
3d Iyathooray and alias Aruthoadial

are not convicted on presumptive proof, or on the evidence of credible witnesses

1st November 1858

witnesses, or on their own confession,
of the crime charged, do acquit them thereof, Robbery and Murder.
and direct that they be set at
liberty.-

Ex[d] Ala

C. Chamier

F. C.

Tuesday
2nd November 1858.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire, —
J. L. Strange Esquire, — Puisne Judges.
C. R. Baynes Esquire, —

Read letter dated 23rd October
1858, from the Sessions Judge of Bellary,
submitting for the final judgment of
the Foujdaree Adalut the record of
Case No. 71 of 1858 on the Calendar of the
Sessions Court.-

(Here entered F. C., No. 2016 of 1858.)

The Court of Foujdaree

Messrs Strange and Baynes. Adalut, on a deliberate consideration
of all the circumstances of the case in
evidence before them, being of opinion
that the proof against the prisoner,
Maoshkeen
is sufficient to convict him of the
offence charged, do convict him
Murder. thereof; and under the provisions

of

of Section X Regulation VIII of 1802, sentence
him to suffer death by being hanged
at the usual time and place of execution.

Ex. Dly.

C.S. Chamier

F. No.

Wednesday 3d. November 1858.

At a Court of the Foujdaree Adalut.

Present.

G.S. Hooper Esquire,
J.L. Strange Esquire,
C.R. Baynes Esquire,
} Prisne Judges.

Read Calendar in Case
No. 81 of 1858, from the Acting Session
Judge of Madura.
(Here enter F. No. No. 1920 of 1855.)
The Prisoner in this Case
having been acquitted by the Foujdaree
Adalut in Case No. 80, it remains for
the acting Session Judge to deal
with him in the present case.

Read letter dated the
16th ultimo, from the Agent of Vizaga-
patam, reporting that the Assis-
tant Agent having held out a pro-
mise of conditional pardon to one
Bonnaghy Joga Padal in the matter
of certain robberies, which he has or
been the means of bringing to light,

the

the Agent has anticipated the sanction of the Foujdaree Adalut, and confirmed the said promise.

/Here enter F. Rc. No. 1991 of 1858./

The Court of Foujdaree Adalut resolve to sanction the offer of a conditional pardon to the party in question, under the peculiar circumstances under which it has been made by the Assistant; but they observe that the confirmation thereof by the Agent was altogether unauthorized, and could not in any way be binding upon the Court.

Read letter dated 8th ultimo, from the Agent to the Governor at Vizagapatam, submitting a report on case No. 12 of 1858, on his file, in which the Prisoner, who is an old offender, is charged with House-breaking with intent to commit theft; and recommending that he be sentenced to 12 months' imprisonment with labor suited to his years

years, he being an old man.

/Here enter F. Rc. No. 1995 of 1858./

The Court of Foujdaree Adalut approve of the sentence proposed to be passed on the prisoner in this case.

Read Calendar of Case No. 60 of 1858, on the file of the Session Court of Vellore.

/Here enter F. Rc. No. 2006 of 1858./

The Session Judge proposes to reduce the sentence of the 1st and 2d prisoners to two years.

Considering that the robbery was grain of insignificant value, and taken under pressure of scarcity, and that no violence has been brought home to the prisoners, the Court of Foujdaree Adalut are of opinion that a sentence to imprisonment with hard labor in irons for one year will suffice for them; and direct the Session Judge to issue his warrant accordingly.

Read

3d. November 1858.

Read Calendar of Case
No. 57 of 1858, on the file of the Session
Court of Calicut.

(Here enter F. Rc. No. 2019 of 1858)

As herein recommended,
the Court of Foujdaree Adalut re-
solve to authorize the Session Judge
to issue his warrant for the im-
prisonment of the prisoner for the
period specified in the margin,
in mitigation of the sentence
passed upon him in the said Case.

2. Arawomben gil Conian Hoorikel.	Four years.

Ex. Rll. Cs. Clamcen

Fr. Rc.

Thursday 4th. November 1858. } At a Court of the Foujdaree Adalut

Present.

G. S. Hooper.	Esqr.	Puisne Judges.
J. L. Strange	Esqr.	
C. R. Baynes.	Esqr.	

Read letter dated the 20th.
October 1858, from the Sessions Judge of
Nundidrug, requesting instructions as to
whether he has any authority to inter-
fere in a trial for murder held in the
Court of the Bungarpully Zaghreendar,
or whether the record should be sent
direct to Government by the Magistrate.

(Here enter F. Rc. No. 2002 of 1858)

The Court of Foujdaree Adalut
resolve to direct the Session Judge to
ascertain from the Magistrate what
course has hitherto been pursued in
Cases of a similar nature, and to
act accordingly.

Read

4th November 1858.

Read again Calendar of Case
No. 52 of 1858 of the Sessions Court of Salem
(Here enter F. Dc. No. 1928 of 1858.)

Read also return dated the
25th ultimo, from the Sessions Judge, to
the precept of the Foujdaree Adalut
under date the 18th idem, calling upon
him to state whether the above Case
presents any aggravating features
which have led him to consider the
maximum amount of punishment
necessary, and if not, whether he Con-
siders that a period of 7 years' im-
prisonment will not suffice to meet
the ends of justice.-

(Here enter F. Dc. No. 2072 of 1858)

The Court of Foujdaree Adalut
are of opinion that the offence of
which the Prisoners are convicted would
be adequately punished with seven years'
imprisonment, and that the deterring
effect on others will also be sufficiently
provided for by such a sentence; and they
authorize the Sessions Judge to issue
his warrant accordingly.-

C. S. Ramen

Exd aa.

F. Dc.

Friday,
5th November 1858.

At a Court of the Foujdary Adalut.

Present

G. I. Hooper Esquire
J. Le Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read Calendar of Cases No. 37
of 1858 on the file of the Sessions Court of Tinnevelly.
(Here enter F. Dc. No. 2013 of 1858.)

It is herein recommended, the
Court of Foujdaree Adalut resolve to authorize
the Sessions Judge to issue his warrant for the ×
imprisonment of the Prisoners for the period specified
in the margin, in mitigation of the sentence passed
upon them in the said case.

× 1. Curpasawmy
2. Chinnadurpasawmy alias Durpasamen
3. Sungaralingam
4. Vunnien
5. Magandy
6. Ramalingareddy
7. Erooliappen
8. Curpanen
9. Rawmen
10. Vanlamuthan
11. Sinnanandy
12. Sungen

Seven Years

Read Calendar of Case No. 54 of
1858 on the file of the Sessions Court of Salem.
(Here enter F. Dc. No. 2046 of 1858.)

It is herein recommended, the
Court of Foujdaree Adalut resolve to authorize
the Sessions Judge to issue his warrant for the
imprisonment of the Prisoner for the period specified
in

Cora Ramen

Four Years

5th November 18..

in the margin, in mitigation of the sentence passed upon him in the said Case.

Exd.

C. Chamier

F. Uc.

Saturday 6th November 1858.

At a Court of the Fouzdaree Udalut

Present.

The Honble W. A. Morehead Esqre. Chief Judge.

G. S. Hooper Esquire, — Puisne Judges.

J. L. Strange Esquire, —

C. R. Baynes Esquire, —

/ No. 32 /

Read the following letter from the Magistrate of Tanjore. / Here enter F. Uc. No. 2032 of 1858. /

Under the circumstances of the case, the Fouzdaree Udalut resolve to recommend that the sanction of Government be given to the trial being held before the Subordinate Court of Combaconum, the Judge of which Court will of course be careful that the defence of the prisoners does not suffer from their removal to a distance from their own village.

To Government and

— " — Magistrate of Tanjore.

Read

Read Calendar of
Case No. 33 of 1858 on the file of the
Session Court of Nundial.-
/Here enter F. No. No. 2045 of 1858./
As herein recommended,
the Court of Foujdarry Udalut re-
-solve to authorize the Session Judge
to issue his warrant for the imprison-
-ment of the prisoner for the period * Gungadoo
specified in the margin, in mitigation Four years.
of the sentence passed upon him in
the said case.-

The Court observe that
2. the names of the Assessors in the
Calendar have been omitted.-

Read Petty Calendars
of the Magistracy for the third quarter
of 1858 submitted by the Session Judge
of Trichinopoly.-
/Here enter F. No. No. 2028 of 1858./

The Court would point Calendar I
1. out that the Magistracy are not No. 2.
competent to take cognizance of of- Rescuing cattle seized under the Cattle
-fences of this description, which Trespass act.
by

by the provisions of Section XIII of the
act quoted must be disposed of by the
Criminal Judge. The fine if paid
must be returned.-

It does not appear on
Calendar II. 2. what grounds the Head Assistant
No. 5. Magistrate demanded security in
Possessing stolen property this case, the party was charged with
possessing stolen property and was
sentenced under Clause I Section V Regulation
XI of 1827 which authorize the Magis-
-trate to demand security for the
maintenance of the Peace. The sen-
-tence in this case must be quashed.-

Read again Calendar
of Case No. 30 of 1858 on the file of the
Session Court of Trichinopoly.-
/Here enter F. No. No. 1915 of 1858./

Read also letter dated
the 30th Ultimo from the Acting Sessions
Judge of Trichinopoly, forwarding an
original letter from the officiating
District Engineer of Trichinopoly
appealing for a new trial in Case No. 30
of

of 1858.-

/Here enter F. Rc. No 2052 of 1858./

1. The Court of Foujdaree Adalut direct that it be pointed out to the officiating District Engineer that an appeal does not lie against an acquittal by a competent tribunal, and that under no circumstances could the new trial which he seeks be granted.-

2. They also direct that that officer be informed that the Foujdaree Adalut consider his application wanting both in fairness to the Session Judge, and in due respect to themselves, in as much as he comes appealing from a judgment of the reasons of which he admits himself to be ignorant- being only "informed" that discrepancies in the evidence were among those reasons and these discrepancies he appears to consider must necessarily be non existent for no better reason than

6th November 1858.

than that he did not hear of or perceive them.-

3. It is due to the Sessions Judge Mr. Harris on whom imputations are thus causelessly cast to state that in the opinion of the Court his judgment on the case was perfectly correct, and that he could not possibly have arrived at any other, on evidence so tainted with suspicion as that by which the charge was supported.-

Read letter dated 14th Ultimo from the Sessions Judge of Hooghly, forwarding Criminal Reports for the month of September 1858, together with a copy of a letter from the additional Joint Magistrate containing remarks on the Proceedings of the Session Court reversing a sentence passed by him in a case of using false weights and measures.-

/Here enter F. Rc. No 1975 of 1858./

1. The Court of Foujdaree Adalut

Adalut observe that the additional Joint Magistrate Mr Pochin was not authorized to enter into correspondence of the nature in question with the Session Judge. He should have acted through the Head of his office, the Magistrate. The Court think moreover the tone of Mr Pochin's remarks highly objectionable being of a dictatorial nature and wanting in that Courtesy which should prevail even where a superior addresses an inferior officer.-

2. The Court think the Session Judge is mistaken in holding that Section LIV Regulation XI of 1816 confines the jurisdiction in frauds committed by use of false weights and measures to the Magistrate. The enactment merely declares that Magistrates may deal with such cases, thereby extending Section XXXII Regulation IX of 1816 to embrace them within the scope of the Magistrates powers. The Magistrate could however under the

the last mentioned enactment only take cognizance of such cases of the description in question as might come within the designation of petty offences, and such as might be of magnitude not to be so viewed would have to go to the Criminal Court or to the Magistrate acting under his extended powers.-

3. The Court have to observe that Mr Pochin appears to have very erroneous notions of the distinction between a misdemeanor and a heinous offence. Cases disposable by a Magistrate under Sections XXXII and XXXIII Regulation IX of 1816 are obviously to be classed as petty offences, and Section XXXIII not having provided for labour in irons for the class of offenders punishable thereunder it would be illegal in the Courts opinion to superadd the punishment.-

Read letter dated 20th October 1858 from the Session Judge of Tellicherry submitting for the final judgment

6th November 1858.

judgment of the Foujdaree Udalut the
record of Case No. 18 of 1858 on the Calen-
dar of the Session Court. — Offence charged, Murder.—

(Here enter F. Dc. No. 2027 of 1858.)

The Court of Foujdaree Messrs. Hooper and Strange.
Udalut, on a deliberate consideration
of all the circumstances of the case
on evidence before them, bring of opini-
on that the proof against the prisoner,

Malayen Ramasetty alias
Panicker Cummum

is sufficient to convict him of the
offence charged, do convict him there-
of; and sentence him to be transport-
ed to such place or places beyond sea,
as the Governor in Council
shall appoint, there to be imprisoned,
and kept to hard labor on the pub-
lic roads or other public works, for
and during the period of his natural
life.—

C. S. Chamier

6th 1858.

F. 26.

Monday 8th November 1858. At a Court of the Foujdaree Udalut

Present.

G. S. Hooper Esquire
T. L. Strange Esquire. } Puisne Judges.
C. Ro. Baynes. Esquire.

Read again Miscellaneous

Petition received on the 23d August 1858, thro' the Principal Sudder Ameen of Vizagapatam, from Pokachekkala Anniah of that zillah.—

(Here enter F. M. P. No. 134 of 1858.)

Read also Miscellaneous

Petition received on the same day, thro' the same officer, from N. Appadoo of that zillah.

(Here enter F. M. P. No. 135 of 1858.)

Read again Miscellaneous

Petition received on the same day, thro' the same officer, from Moguunah of the same zillah.

(Here enter F. M. P. No. 136 of 1858.)

Read also Miscellaneous Petition

received on the same day, thro' the same officer, from Rama Pillay of the same zillah.

(Here enter F. M. P. No. 137 of 1858.)

Read

Read also returns and supplemental returns dated respectively 7th and 9th October 1858, from the Principal Sudder Ameen of Vizagapatam, to the precept of the Foujdaree Adalut dated 23d September 1858, directing him to procure and forward a copy of the sentence passed by the Magistrate of Vizagapatam in the matter.

(Here enter F. Mo. Nos 1942. 1943. 1944 and 1945 of 1858)

1 The Court of Foujdaree Messrs Hooper and Strange

Adalut see no ground to interfere in the cases in question, and accordingly resolve to reject the petitions.

Read Miscellaneous Petitions received on the 4th October 1858 thro' the Subordinate Judge of Rajahmundry, from Tallur Mauriah of that zillah.

(Here enter F. M. P. No 163 of 1858.)

1 Petitioner appeals from Messrs Hooper and Strange the order of the Sessions Judge under date the 20th August last, confirming the sentence passed upon him by the Subordinate Judge in Criminal Case No 73 of 1858.

2 The Court of Foujdaree

Adalut

8th November 1858.

Adalut see no ground for their interference in behalf of the Petitioner and accordingly resolve to reject the petition.

Ed BD. C. Chamier

F. No.

Tuesday, 9th November 1858. At a Court of the Zoujdary Adalut

Present

G. T. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read Criminal Reports for the months of September 1858, submitted by Sessions Judge of Calicut.

Were enter F. No. Nº 1964 of 1858/

Subordinate Judge's Nº 83.

The Court would point out that under the Regulation quoted in the Sentence, Security for appearance and good behaviour can only be required, and not Security to keep the Peace. The Sentence will be amended accordingly.

Read letter dated the 16th September 1858, from the Acting Sessions Judge of Salem, submitting for the consideration and orders of the Zoujdaree Adalut whether the provisions of Act XVII of 1856 extends to the processes issued by officers holding appointments under the Government

9th November 1858

Government of the East India company and lawfully exercising the powers of a Magistrate within the limits of the Bangalore Division.

(Here enter F. C. No 1774 of 1858)

The Court of Foujdary Adalut observe that Mysore is in law a "foreign state "administered by Her Majesty's Servants." Native British subjects charged with offences committed therein cannot be removed from British territory for trial before such officers without the sanction of the local Government or its Commissioner, who is in the present case, the Session Judge of Salem. This course must still be followed act XVII of 1856 notwithstanding; that enactment having Reference only to processes issued by Magistrates in one part of Her Majesty's dominions intended to be executed in another part thereof.

Read letter dated 23rd October 1858, from the Session Judge of Honore, submitting for the final judgment of the Foujdaree Adalut the record of Case No 22 of 1858 on the Calendar of the Session Court:

Offence charged Murder.

(Here enter F. C. No 2053 of 1858.)

The

9th November 1858

Mess^rs G. L. Hooper
and
J. L. Strange

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the Case in evidence before them, being of opinion that the proof against the prisoner,

Chelvaya,

is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of Section X, Regulation VIII of 1802, sentence him to suffer death by being hanged at the usual time and place of execution.

C. Chancier

Ex Dall.

Wednesday 10th November 1858.

At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esquire,
T. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read a Miscellaneous Petition presented on the 4th instant, by J. D. Mayne Esquire, Pleader on behalf of the Reverend E. Favrenr and the Reverend J. B. Trincal, of Zillah Madura.

(Here enter F. M. D. No. 190 of 1858.)

Messrs. Hooper Strange and Baynes.

It appears that the Reverend Phillippe Reinald D'Cruz, a Roman Catholic Priest, professing obedience to the Arch-Bishop of Goa, complained to the Acting Head Assistant Magistrate, in July last, that in the preceding month, the catechist and chief members of the congregation of the Roman Catholic Church at Soorainum

Soorannum had conspired to refuse him access, as usual, to the said Church, or to allow his ministrations therein, admitting and inducting thereto, the Reverend E. Favrun, and the Reverend J. B. Trincal, Priests of the society of Jesus, attached to the Roman Catholic Mission in Madura, to the wrong and injury of him the complainant, who declared himself the proprietor of the said Church, and its properties.

2. Upon this petition the Acting Head Assistant Magistrate made order under date 16th July, that the aforesaid parties, so in possession, be ejected, and the petitioner replaced therein.

3. This order was, however, suspended on the 24th July, by the Chief Magistrate of the District, who saw cause to doubt its propriety, and who finally resolved to remand the case for further enquiry and decision de novo to the Head Assistant Magistrate

Magistrate, who had in the mean time rejoined his office.

4. The Head Assistant Magistrate passed an order on the 31st July, in which, premising that he held the actual possession to have been in the catechist, and that he could deliver it to whom he would, subject to the peril of a civil action, if acting wrongly or injuriously in the matter, he, the Head Assistant Magistrate, found that possession had been so given, and not forcibly taken, and therefore declined to interfere, referring the parties to the Civil Courts.

5. On appeal, the acting Session Judge, on the 10th September 1858, overruled this order, and confirmed that made previously by the acting Head Assistant Magistrate, on the grounds

1st That the latter was illegal in annulling a final decision already made by

by a competent authority, and,
2dly, That the order in question was
in itself wrong.

6. The Fouzdaree Adalut would observe that the first objection is untenable. It cannot be held that the Chief Magistrate of a District, seeing reason to doubt the propriety of an order made by one of his Assistants, and on which the peace of the country may perhaps depend, may not suspend its operation, and calling up the case, either revise it himself, or remand it to any other of his subordinates for further enquiry and reconsideration. The latter course was adopted in the present instance, and the Head Assistant, Mr. Cockrell, was therefore perfectly in rule when, in obedience to the instructions of his superior, he made the order which was appealed against in the Session Court.

That

7. That order was thereupon reversed on what the Fouzdaree Adalut consider to be an erroneous apprehension of the duties and powers of the Magistracy in such cases. It is clear from the order in 1840, of the then Magistrate, that rivalry has long subsisted between the parties as to the privilege of ministering in the said Church, and that the pretensions of the Portuguese Priest were at that time held preferable. Since that period the actual custody and possession of the property is admitted to have been with a catechist or warden, employed, as the complainant De Cruz asserts, by him, but as the said catechist himself swears, by the legal owners, the congregation under whose orders he gave possession to the opposite party on the 28th June last. Such are the admitted

facts

facts, and when the original complaint was made, the Jesuit Priests had been some time in possession, and it was not even pretended that such possession had been forcibly taken, or that any breach of the peace had been committed. It had been transferred, in legal form at all events, by parties claiming a power to bestow, to parties alleging a qualification to receive. Whether these pretensions could be sustained or not was the point in issue, and this the Head Assistant Magistrate could not take upon himself to decide. He found that no force had been used, and therefore felt that he had neither reason or authority for interference; and his order to leave in possession the parties admitted to be in was therefore proper.

8. The Foujdaree Udalut, under these circumstances, resolve to annul the order of the Acting Session Judge

Judge now appealed against, and confirm that of the Head Assistant Magistrate which leaves the party professing himself to be aggrieved by the Act of the catechist and the congregation to determine by civil action whether they have the power to eschude him, and to appoint another minister.

Read again supplemental return dated 30th September 1858, from the acting Session Judge of Madura, to the precept of the Foujdaree Udalut under date the 10th August 1858, calling for records in Calendar Cases Nos. 60 and 61 of 1858.

[Here enter F. Co. No. 1866 of 1858.]

The Court of Foujdaree Udalut observe that the Acting Session Judge has availed himself of the opportunity which he conceived the transmission of these cases presented, to illustrate the operation of their remarks of the 28th September last, relative to the information derivable from

from the necessary act of perusing such translations when certifying their accuracy. In order to do this the Acting Session Judge has, in their opinion, had recourse to a very unbecoming procedure: he has made a number of corrections with great seeming care under his initials, which he must have well known to be wholly unimportant, and which would not have fallen within the scope of a "requisition for accuracy" even had the term been intended to be understood as the Acting Session Judge at first said that he supposed it was. Such instances as those noted in the margin are scattered over the translations, and their object could be only to place what he professed to consider the orders of the Toujdaree Adalut, in a ridiculous light.

E. G.

Original translation	correction.
Caught hold of	apprehended.
went near	approached.
what did I see?	I saw nothing.
in my behalf	in my defence.
I have nothing to say	what have I to say.
seeing	looking on.
right	correct.
I heard	I have heard.
got into a boat	embarked in a boat.
told	said.
were keeping	Kept.
before Police	before the Chief

C. S. Chamier

E. & O. E.

T. C.

Thursday 11th November 1858. } At a Court of the Toujdaree Adalut

Present

G. S. Hooper Esqre.
J. Le. Strange Esqre. } Puisne Judges.
C. Re. Baynes Esqre.

Read letter dated the 3rd Instant, from the Acting Subordinate Judge of Mangalore, requesting permission to delay the submission of his report called for in the Extract from the Minutes of Consultation dated 19th Ultimo, on account of the Jailor's absence on sick certificate.

(Here Enter T. C. No. 2065 of 1858)

The Court of Toujdaree Adalut observe that the Acting Subordinate Judge should have specified what delay is required, for what period the Jailor has leave, and to what place, and whether he may not be sent for, and he is directed to furnish information on these points without delay.

Precept in 2 days.

Read

Read Calendar of Case No. 31 of 1858 of the Sessions Court of Trichinopoly.

(Here enter F. M. No. 2069 of 1858)

The Court of Foujdaree Adalut are of opinion that the mitigated sentence of 4 years imprisonment proposed by the Acting Sessions Judge is insufficient for the punishment of the prisoners in this case, and they accordingly resolve to direct that the Prisoners be respectively sentenced to 7 years imprisonment with hard labor in irons.

Read Miscellaneous Petition presented on the 15th April 1858 by M. Venkata royaloo Naidoo Pleader on behalf of Re. Rachapah of zillah Bellary.

(Here enter F. M. P. No. 60 of 1858

Messrs. Strange and Baynes.

1 This is an appeal from the order of the Sessions Judge under date the 15th January 1858 confirmatory of that of the Magistrate whereby the Petitioner was required to remove a certain shop built by him.

2 The Court of Foujdaree Adalut seeing no ground to question the propriety of the order appealed from, resolve to reject the petition.

Read Miscellaneous Petition presented on the 30th August 1858, by Re. Veroonmul Row, Pleader on behalf of Paukel Baulakrishna Pantsoodoo, zillah Ganjam.

(Here enter F. M. P. No. 142 of 1858)

Messrs. Strange and Baynes.

1 The object of this petition is to induce the Court of Foujdaree Adalut to order the removal of the stigma thrown upon his character by the Governor's Agent in his proceedings dated the 3d July last on Criminal Case No. 11 of 1858.

2 The Court of Foujdaree Adalut regret that the Acting Agent should have put forth in his decision in this case matter to the prejudice of the petitioner who was no party in the case, and without, so far as the decision shows, any evidence given therein on the subject.

Read Miscellaneous Petition presented on the 11th October 1858 by M. Venkata royaloo Naidoo Pleader on behalf of Marooduvoy of zillah Coimbatore.

(Here enter F. M. P. No. 169 of 1858)

Messrs. Strange and Baynes.

This is an application for the release of the 1st and 2d Prisoners sentenced to 2 years imprisonment with hard labor in irons

1 Subbaredy.
2 Moonmaw.

prisoner in Case No. 22 of 1858 on the file of the Sessions Court.

The Court of Foujdaree Udalut see no ground to disturb the sentence in question and accordingly resolve to reject the petition.

Read Miscellaneous Petition presented on the 14th October 1858 by J. D. Mayne Esqr. Pleader on behalf of Tindevanum Raghavooloo of zillah Nellore.

(Vera Entr. F. M. P. No. 171 of 1858)

Messrs. Strange and Bayne.

This is an appeal from the sentence of the Sessions Judge in Case No. 45 of 1858 wherein the Petitioner was prisoner.

The Court of Foujdaree Udalut see no reason to doubt the propriety of the Petitioner's conviction, or the justice of the sentence passed upon him. They therefore reject the petition.

Read Miscellaneous Petition presented on the 14th October 1858 by J. D. Mayne Esqr. Pleader on behalf of Combay of zillah Trichinopoly.

(Vera Entr. F. M. P. No. 172 of 1858)

Messrs. Strange and Bayne.

This is an appeal from the sentence of the Sessions Judge in Case No.

No. 40 of 1857 wherein the Petitioner was first prisoner.

The Court of Foujdaree Udalut see no reason to doubt the propriety of the Petitioner's conviction, or the justice of the sentence passed upon him. They therefore reject the petition.

Read Miscellaneous Petition presented on the 20th October 1858, by Mocktear Vakeel on behalf of Achamma mother of Achamma of zillah Chittoor.

(Vera Entr. F. M. P. No. 180 of 1858)

Messrs. Strange and Bayne.

Petitioner seeks the reversal of the sentence passed upon her son Prisoner in Case No. 13 of 1858 on the file of the Sessions Court of Chittoor.

The Court of Foujdaree Udalut see nothing which would induce them to question the propriety of the sentence appealed from, and resolve to reject the petition.

Read Miscellaneous Petition presented on the 14th Ultimo by Mr. H. B. Saunders Pleader on behalf of Machanum Pamjanah and another of zillah Chittoor.

(Vera Entr. F. M. P. No. 170 of 1858)

Petitioners

11th November 1858

1 Petitioners appeal from the sentence of the Sessions Judge in Case No 46 of 1858 wherein they were prisoners.

Mr Sharp and Baynes

2 The Court of Foujdaree Udalut see no ground to interfere with the sentence appealed against, and accordingly resolve to reject the Petition. —

Ed 18D.

C. Chamier

J. U.

Saturday 13th November 1858 At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre
T. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges

Read Petty Calendars of the Magistracy for the third quarter of 1858 submitted by the Acting Session Judge of Cuddalore.—

/Here enter J. U. No 2075 of 1858/

Calendar I. No 34. "False complaint"

As the offence with which the prisoner in this case charged the party was not punishable by the Magistrate under section XXXII or XXXIII of Regulation IX of 1816, it was not competent for the Magistrate to punish under the same regulation for "false complaint"—

Nos 36 and 37 Illegal recovery of cattle

2 The Magistrate cannot take cognizance of such cases which Act III of 1857 requires should be committed to the Criminal Judge.—

No 42. Cumping

3 This is not a "petty offence", it should therefore have been entered in the monthly criminal reports.—

Read Calendar of case No 58 of 1858 on the file of the Session Court of Salem.—

/Here enter J. U. No 2091 of 1858/

As

13th November 1858

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.—

× 1 Soobbarayen
2 T. Paldny
3. Idoomben
4 Ranky
7 years.

Read Calendar of case No. 66 of 1858 on the file of the Session Court of Calicut.—

/Here enter F. Ub. No. 2083 of 1858/

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.—

× Poola Cheroman Koren alias Kolaven
Two years.

E. Ewell.

C. R. Chancie

F. Ub.

Monday.
15th November 1858

At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre
T. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges.

Read Miscellaneous petition presented on the 18th ultimo by J. W. Branson Esqre pleader on behalf of Kilavan and others of Zillah Madura.—

/Here enter F. Mc. R. No. 174 of 1858/

Messrs Hooper and Baynes.—

This is an appeal from the sentence of the Acting Session Judge in case No. 63 of 1858 in which petitioners are prisoners 2 to 9.—

2 The Court of Foujdaree Udalut resolve to direct the Acting Session Judge of Madura to submit an english translation of the record in the case in question, and to suspend execution of the sentence until their final orders are received.—

Precept returnable within × days from and after its receipt.—

Read Miscellaneous petition presented on the 21st October 1858 by J. D. Mayne Esqre pleader

pleader on behalf of R. Ramasawmy and others of Zillah Nellore 15th November 18 15th November 1858

/Here enter F.M.C. No. 182 of 1858/

1 This is an appeal from the sentence of the Session Judge in case No. 41 of 1858, wherein petitioners are 1st 2d 3d 5th 7th 8th 14th and 15th prisoners. — Mssrs. Hoopa and Bayard.

2 The Foujdaree Adalut seeing reason to question the propriety of the conviction in this case, resolve to call upon the Session Judge to send a translation of the record for their consideration.—

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

Read letter dated the 3d instant, from the Session Judge of Chittoor, forwarding a petition addressed to this Court by I.I. D'Costa, a convict in the Jail under sentence of 5 years' imprisonment with hard labor in irons, praying for a remission of the above sentence.—

/Here enter F.C. No. 2062 of 1858/

The Court of Foujdaree Adalut see no grounds for any remission of the sentence passed by the Session Judge, and accordingly reject

15th November 1858 reject the petition

Read letter from the Session Judge of Chittoor dated 3d November 1858.—

/Here enter F.C. No. 2056 of 1858/

1 The Court concur with the Session Judge in considering that the parties referred to in the above letter should on their apprehension be taken before the Head of Police where the charge against them lies, and at whose motion the warrant has been issued.—

2 The Court would observe that it is unnecessary for the Session Judge to refer for their opinion questions on which he is himself able to give a judgment.—

Read letter dated the 5th instant from the Session Judge of Nundial, submitting for the final judgment of the Foujdaree Adalut an english translation of the record of the trial in a case of "Attempt at highway robbery with wounding" and recommending that a mitigation of prescribed penalty be passed.—

/Here enter F.C. No. 2080 of 1858/

Read also Calendar of Case No. 22 of the Session Court of Nundial.—

/Here enter F.C. No. 2081 of 1858/ As.

15th November 1858

1 As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.— Hanumumdoo 7 years.

2 The Court resolve to point out to the Session Judge that as he concurred with the assessors in the conviction of the prisoner, it was not necessary to refer the record of the case for their final consideration, but the recommendation for the mitigation of punishment should have been appended to the sentence in the Calendar, as directed in Foujdaree Udalut Circular Order No. 6.—

Read Miscellaneous petition presented on the 7th September last, by Rungasawmy Zillah Coimbatore.—

/Hereunto F. M. P. No. 173 of 1858/

1 Petitioner appeals from the sentence passed upon him by the Session Judge in Case No. 45 of 1857, in which he is 10th prisoner.— Mssrs Hoope and Bayne.

2 The Court of Foujdaree Udalut see no reason for interfering with the sentence passed on this prisoner, and accordingly reject the petition.—

C. S. Cha

Do 16th

F. M.

Tuesday, 16th November 1858.

At a Court of the Foujdaree Udalut.

Present

G. I. Hooper Esquire
G. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read letter dated the 29th October 1858, from the Agent to the Governor in Ganjam, reporting that certain prisoners who have been already convicted and sentenced may be sent to him to give evidence in the trial of certain Bungeys charged with having committed outrages in the late Goomsoor disturbances.

/Hereunto F. M. No. 2090 of 1858/

1. From the above letter the Foujdaree Udalut understand that the 15 Bungeys therein referred to were arrested merely as followers of Chokra Bissoy without any allegation of any specific acts of rebellion against themselves, and that a search among the records of trials held in 1846 has now discovered that some of the prisoners convicted therein incidentally mentioned people of the same names as some of those now in custody

custody as their accamplices.

2. Under these circumstances, the Agent desires to have the said convicts forwarded from their several places of confinement for the purpose of ascertaining whether at this great distance of time they will repeat their statements and affirm the parties in custody to be those to whom they then alluded. The Tondiare Addalut cannot give their sanction to such a course, and would point out to the Agent that it is not their province at such a stage of the proceeding to distrust him in his Magisterial capacity as to the evidence which he may think it proper and expedient to submit for the consideration of the tribunals, and that should he be of opinion that such as that to which he now refers, - and which it seems hardly probable can, after this lapse of time, be satisfactorily corroborated, - could by any possibility be allowed to prevail to the conviction of the parties whom it is now proposed to accuse of crimes committed 12 years ago, the usual course of obtaining their attendance is open to him. It can scarcely be necessary for the Court to observe that if, in his judgment, there appears no prospect of obtaining sufficient evidence against the accused, it is his duty to release them immediately.

3. The Court would also remark that they are entirely unable to comprehend the design of the Agent in making reference to their instructions of the 12th August 1857, as they cannot perceive what probable bearing they have on the case in question.

Read letter dated 9th November 1858, from the Sessions Judge of Nellore, submitting for the final judgment of the Tondiare Addalut the Record of Case No. 48 of 1858 on the Calendar of the Sessions Court.

Offence charged. Murder.

Here enter F. No. No. 2087 of 1858.

Mess.rs J. D. Strange and C. R. Baynes

The Court of Tondiare Addalut, on a deliberate consideration of all the circumstances of the Case in evidence before them, being of opinion that the Prisoners,

1st Patne Krishnamchatla

and

2nd Suram Venkamma

are not convicted on presumptive proof, or on the evidence of credible witnesses, or on their own confession

16th November 18

confession, of the crime charged, do acquit them thereof, and direct that they be set at Liberty.

Exd Dak.

C. S. Chamier

F. No.

Thursday 18th November 1858. At a Court of the Foujdaree Adalut.

Present.

G. S. Hooper Esquire,
J. Lo. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read again Miscellaneous Petition presented on the 23d August 1858, by Annasawmy, late Criminal Sawabuvie of the Civil Court of Madura.

/Here enter S. & F. M. P. No. 26 of 1858./

Read again return dated 27th September 1858, from the acting Session Judge of Madura, to the precept of the Foujdaree Adalut under date the 23d idem, ordering the re-employment of one Annasamy Iyen.

/Here enter F. M. No. 1846 of 1858./

Messrs. Hooper Strange and Baynes.

The Court of Foujdaree Adalut cannot allow either the tone or substance of this "return" to pass without an expression of their grave disapprobation

disapprobation. In making it the Acting Session Judge appears to have at once forgotten respect for superior authority, and that strict accuracy of Statement which it behoves, a Judge especially to preserve when dealing with the characters and interests of those subject to his authority, and looking for justice at his hands.

2. On a careful perusal of all the orders passed in the case of Annasamy, the Judge can find no trace of the serious charge, which the Acting Session Judge has now ventured to put forth, without adducing any evidence to support it. The whole tenor of his orders shows that the individual in question was held to be, either from negligence or incapacity, unfit for the novel and peculiar duties of the situation to which he had been recently promoted, but no where is there the slightest imputation of "wilful corruption." So far from such

Order of the 5th April 1858
Do. 17th Do.
Do. 8th May
Do. 12th Do.
Do. 5th July

such being the case, the acting Session Judge is at pains, in his return of the 17th July 1858, to impress upon the Court his belief that the faulty dictation of which he complained was the result of "inveterate habit," existing not in Annasamy alone, but in other Gomastahs of making the depositions taken in the Session Court agree with those given in other places and of "no other reason."

3. The Court moreover cannot suppose that if the acting Session Judge had seen grounds for believing that Annasamy's errors proceeded from corrupt motive, or in other words from bribed collusion with accused parties to defeat the ends of Justice; for corruption in the case in question could have no other motive or end, he would have dealt with them as he did, "warned" "fined" "dismissed" "restored on promise of amendment" and eventually "dismissed" the

the culprit, without the slightest effort
to bring to justice, the perpetrator of so
serious a crime of which however he
now represents himself as having
held him guilty and for which he
punished him without allowing
him to know that such was the charge
against him, or calling on him for
any explanation or defence.

4. The Judges therefore are
compelled to remark that they consi-
der the charge now first made to be
wholly undeserving of credit or atten-
tion and to have been advanced in a
manner and under circumstances not
creditable to the Acting Session Judge.

5. Finally the Judges must
observe that the construction which
the Acting Session Judge in the con-
cluding para of his return has placed
on the Court's Orders relative to the degree
and nature of the accuracy required
in the translations of Criminal re-
cords is not only a misunderstanding,

but

but in their opinion a wilful misap-
prehension of those orders, and is together
with his remarks thereon expressed in a
highly disrespectful and indecorous
manner.

C. D. Chamier

Dr. 18 Dt.

F. M.

Friday.
19th November 1858.

At a Court of the Foujdaree Udalut

Present

G. A. Hooper Esquire,
T. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read letter dated 6th Novem-
-ber 1858 from the Session Judge of Guntoor,
submitting for the final judgment of the
Foujdaree Udalut the record of Case No 16
of 1858 on the Calendar of the Session Court.

/Here enter F. M. No 2086 of 1858./

The Court of Foujdaree

Messrs Hooper and Strange

Offence charged, Murder.

Udalut, on a deliberate consideration of
all the circumstances of the case in evi-
-dence before them, bring of opinion that
the proof against the prisoner,

Valvala Venkatroydoo also
called Pedda Venkatroydoo

is sufficient to convict him of the of-
-fence charged, do convict him thereof;
and under the provisions of Section X
Regulation

19th November 1858.

Regulation XIII of 1802, sentence him to suffer death by being hanged at the usual time and place of execution.- vs

E. B. C.

C. S. Chamier

F. M.

Saturday. At a Court of the Faujdaree Adalut.
20th November 1858. Present

G. S. Hooper Esquire
J. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read Calendar of Case No. 36 of 1858 on the file of the Sessions Court of Coimbatore.-

(Here enter F. M. No. 2128 of 1858.)

As herein recommended,

the Court of Faujdaree Adalut resolve to authorize the Sessions Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.-

1. Pattavalian - eight years.
2. Naulymaapa - par - ... - eight years.

Read Calendar of Case No. 67 of 1858, on the file of the Sessions Court of Calicut.-

(Here enter F. M. No. 2135 of 1858.)

As herein recommended, the

the Court of Foujdaree Udalut re-
solve to authorize the Sessions Judge
to issue his warrant for the im-
prisonment of the prisoner for the
period specified in the margin, in
mitigation of the sentence passed
upon him in the said case.-

× Pattany Ma-
nud Khan.
Two years.

Ex. Dall.

C. S. Chamier

Monday
22d November 1858 At a Court of the Foujdaree Udalut.

Present

G. S. Hooper Esqre
T. L. Strange Esqre
C. R. Baynes Esqre
} Puisne Judges

Read Calendar of case No. 62 of 1858
on the file of the Session Court of Salem.-

/Here enter F. Uc. No. 2144 of 1858/

As herein recommended, the Court of
Foujdaree Udalut resolve to authorize the Session
Judge to issue his warrant for the imprisonment of
the prisoner for the period specified in the margin,
in mitigation of the sentence passed upon him
in the said case.-

× Chinnan
Three years.

Read Calendar of case No. 59 of
1858 on the file of the Session Court of Salem.-

/Here enter F. Uc. No. 2142 of 1858/

As herein recommended, the Court
of Foujdaree Udalut resolve to authorize the Ses-
sion Judge, to issue his warrant for the imprise-
sonment of the prisoner for the period specified in
the margin, in mitigation of the sentence passed
upon him in the said case.—

4. × Moonyan
Seven years.

Read

22d November 1858.

Read Miscellaneous petition presented on the 18th October 1858, by M. Venkatarayalu Naidoo, pleader on behalf of Venkatarayalu, Narasimmalu and Achee, of Tillah Chinnakpat.—

/Here enter Fld. No. 177 of 1858/

1. This is an appeal from the sentence of the Sessions Judge in case No. 18 of 1858, wherein the petitioners were 6th, 10th and 11th prisoners.— Mssrs. Hooper and Strange

2. The Court of Foujdaree Udalut see no ground to question the propriety of the sentence appealed against, and accordingly resolve to reject the petitions.

Read letter dated the 13th instant, from the Acting Session Judge of Madura, offering explanation on the remarks of the Foujdaree Udalut in their proceedings of the 10th instant.—

/Here enter Fld. No. 214 of 1858/

1. In reference to para 3 of the above letter the Court of Foujdaree Udalut observe that the Judge should pay close attention to the recorded evidence when read out preparatory to taking the deponents signature thereto, and if it appear to him that any error has been committed in taking it down, he should then have it remedied after

22d November 1858.

after making appeal to the deponent.— After the deposition has been signed by the deponent, and he has been discharged from attendance, no alteration in the deposition can be made.—

The Judge is bound to see that

2

the translations convey a correct representation of the statements of the deponents.— If read over by the Judge as soon as made, the facts of the case should be sufficiently fresh upon his mind to allow of his judging of the translation, without ordinarily having to refer for comparison to the original.— S.

C.S. Chamier

Ex Edn.

J. Ms.

Tuesday 23rd November 1858.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire,
J. L. Strange Esquire,
C. R. Bagnes Esquire,
} Puisne Judges.

Read letter dated 16th Novembr 1858 from the Session Judge of Mangalore, submitting for the final judgment of the Foujdaree Adalut the record of Case No 27 of 1858 on the Calendar of the Session Court of 1858 on the Calendar of the Sessions Court.

(Here entered J. Ms. No 2153 of 1858.)

Messrs Hooper and Bagnes.

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case and evidence before them, being of opinion that the proof against the prisoner,

Punnesha

is sufficient to convict him of the offence charged, do convict him thereof and under the provisions of Section X Regulation VIII of 1802, sentence him to

suffer

Offence charged, Murder.

23d. November 1858

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

C. Chamier

F. C.

Wednesday 24th November 1858.

At a Court of the Foujdaree Adalut.

Present

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges

Read letter dated 4th ult.
October 1858, from the Sessions Judge of
Rajahmundry, submitting for the
final judgment of the Foujdaree Ada-
lut the record of Case No. 20 of 1858 on
the Calendar of the Sessions Court.

(Here enter F. C. No. 2154 of 1858.)

Mr. Baynes.

The Court of Foujdaree
Adalut, on a deliberate consideration
of all the circumstances of the case
in evidence before them, being of
opinion that the proof against the
prisoner,

Saba Sahel

is sufficient to convict him of the
offence charged, do convict him thereof;
and

and under the provisions of Section XXI, Regulation VII of 1802, 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 (7) seven years.-

Read Criminal Reports for the months of October submitted by Governor's Agent, at Ganjam.-

/Here enter F. No. No. 2162 of 1858./

The sentence in this case appears severe with reference to the value of property stolen, and the Court request the agent will review the record and pass such orders thereon as he may deem fit.-

Assistant Agents Report No. 21. Housebreaking.

Read Criminal Reports for the month of October 1858, submitted by the Session Judge of Vellore.-

/Here enter F. No. No. 2140 of 1858./

1. The Court are of opinion that these were not cases for committal, and that they should have

Nos. 195 and 198. "Fraud" and "attempt".

have been disposed of by the Criminal Court.-

The charge should have

No. 207. 2. "Misdemeanor." been framed so as to set out some known form of offence. The circumstances of the case do not amount to what would constitute compounding a felony, but appears to involve misprision.-

The sentence in this

No. 210. 3. "Fraud." case is inappropriate with reference to the nature of the offence, which was nearly akin to theft. The prisoner should have been awarded imprisonment with hard labor.-

In a petty case of this

No. 214. 4. "Theft." description the prosecution should not have been at the instance of Government. If the party aggrieved refused to come forward and prosecute, the prisoner should have been discharged.-

Read letter from the Session Judge of Vellore dated 4th November 1858.

24th November 1858.

/Here enter F. No. No 2100 of 1858./

1. In this letter the Sessions Judge of Nellore requests the opinion of the Court as to whether District Moonsiffs who are authorized by Section XIX of act III of 1857 to receive complaints under that Section, are also authorized to impose penalties under Sections XVII and XVIII of the same act, and Secondly, whether in the case of the sale proceeds of cattle sold under these Sections, being insufficient to cover the amount of penalty, the balance may be recovered by sale of other property.-

2. The Court are of opinion that District Moonsiffs are not authorized to dispose of cases under the Sections above quoted; but they agree with the Judge in thinking that the balance of penalties due after sale of cattle may be realized by distress and sale of other property.-

Ex. Read.

C. S. Chamier

Read

24th November 1858.-

Read letter dated the 4th ultimo, from the Sessions Judge of Rajahmundry, submitting for the final judgment of this Foujdaree Adalut, the record in Case No 20 of 1858 of the Calendar of the Sessions Court.-

/Here enter F. No. No 2154 of 1858./

The Court of Foujdaree Adalut point out to the Sessions Judge for information of Subordinate Judge, that the Vakeel of the Prosecutrix should not have been sworn, as he is stated to have been, before the Criminal Court; and that the fact of escape should have formed a separate charge, and reserved for trial by the Subordinate Court, in the event of an acquittal in the Sessions Court under Clause 3d, Section V, Regulation VI of 1822.-

Ex. Read.

Thursday
25th November 1858.

F. C.

At a Court of the Foujdaree Udalut

Present.

G. S. Hooper Esquire
T. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges

Read Miscellaneous Petition presented on the 12th Ultimo by Mr. H. B. Saunders Pleader on behalf of Kodundaramien of Zillah Combaconum.-

/Here enter F. M. P. No. 183 of 1858/

Mess.rs Hooper and Strange.

1. Petitioner appeals from the order of the Session Judge under date the 9th March 1858 confirming that of the Head Assist.ant Magistrate dated the 15th February preceding, and refusing to order remission of the fine imposed upon the Petitioner.-

2. The Court of Foujdaree Udalut cannot interfere on behalf of the Petitioner.- and accordingly reject the Petition.-

Read Miscellaneous Petition received on the 11th Ultimo thro the Session Judge of Tellicherry from Podan and Ambor of that Zillah.-

/Here enter F. M. P. No. 167 of 1858/

Mess.rs Hooper and Strange.

1. Petitioners appeal from the sentence of the Session Judge in case No. 15 of 1858 wherein they

they are 1st and 2d prisoners.-

2. The Court of Foujdaree Udalut see no reason to question the propriety of the sentence appealed against, and accordingly reject the petition.-

Read Miscellaneous Petition presented on the 18th Ultimo by Mr. H.B. Saunders Pleader on behalf of Mottoosamy Pillay of Zillah Combaconum.

/Here enter F.M.P. No. 176 of 1858/

1. This is an appeal from the sentence of the Session Judge in case No. 27 of 1858, wherein Petitioner is 2d prisoner.- Messrs. Hooper and Strange.

2. The Court of Foujdaree Udalut see no ground to question the correctness of the sentence in question and accordingly resolve to reject the petition.-

2d 18d.

C.S. Ramier

F. U.

Friday 26th November 1858.

At a Court of the Foujdaree Udalut.

Present

G. S. Hooper, Esquire
J. L. Strange, Esquire
C. R. Baynes Esquire
} Prisone Judges

Read again Miscellaneous Petition presented on the 30th August 1858, by J.W. Bramson Esquire Pleader on behalf of B. Narasimha Moorty Pumtoolo late Peishcar of Bichavole Talook in the Zillah of Rajahmundry.

/Here enter F.M.P. No. 143 of 1858/

Read also return dated 6th Instant from the Session Judge of Rajahmundry, to the Precept of the Foujdaree Udalut under date the 14th October 1858, directing the Submission of an English translation of the Record in the Case of the above Petitioner.

/Here enter F.U. No. 2159 of 1858./

1. The Court of Foujdaree Udalut are unable to concur with the Session Judge and Magistrate that the charge against the petitioner and the 1st and 2d are Defendants has been satisfactorily proved.-

2. The complainant and his witnesses were called

called up to the Talook Cutcherry to discharge a re-
venue demand to which they objected. The complainant
says on being ill treated he gave in and that his witnesses
fearing to be similarly illused did so likewise. on the
face of the case it is thus apparent that the complainant
and his witnesses have been all interested in the matter —
represented as lying at the root of the charge, namely the
resisted revenue demand. The witnesses are thus not in
the position of independent spectators.

3

The representations of the —
complainant in his written complaint and examination are
entirely dissimilar and to an extent difficult to reconcile —
with the idea that the complaint is a true one. In the
written complaint it is stated that no communication was
held by complainant with the petitioner / the Peishcar / res-
=pecting the said resisted demand, and that he was called —
out of the Cutcherry where the petitioner was by a —
Duffadar, and there tied up and beaten because he —
refused to give the Duffadar a bribe of Rs. 2 — — —
In his examination the complainant says that the said
demand was raised upon him by the Peishcar, and that
he was tied up and beaten by his orders in the —
Cutcherry because he refused to pay it. The complainants'
witnesses support his latter statement but one of them so far

fails

fails him as not to mention the important, and if true patent
circumstance, that he was bound as well as beaten. —

The Court can place no reliance on —

4

this evidence and in reversing the sentence passed, direct
that the fines imposed upon the petitioner and the 1st &
and 2d Defendants be remitted to them. —

Precept returnable within III days from
and after its receipt. —

Read Criminal reports for the month
of October 1858, submitted by Sessions Judge of Chicacole
/ Received under S. U. No. 2164 of 1858 /

From the charge it would appear —

No. 26 of 1858, Moofty Sudr Ameen "House-breaking and theft"

doubtful whether the place was of such a description as would
make the breaking into it "Housebreaking". "Under any circumstan-
=ces however looking to the probably insecure nature of the
shed or woodyard and the value of the property stolen, —
the punishment appears very severe even although the —
prisoner has been previously convicted. the Court accordingly
looking to the corporal punishment which has already been
inflicted, direct the reduction of the sentence to two (2) months
imprisonment. —

No. 29 Wounding severe 2

The Heading in this case should
have been "wounding with intent to kill". The Court have
to observe on the absurdity of the remarks in last column
in the case being deferred till the prisoner recovers from

his

his Mortal wound.—

26th November

Read letter dated the 15th instant, from the Agent to the Governor at Vizagapatam, submitting a report on a Case of Murder in Pauvasaum village in the Vizianagrum Taluk in which the 1st Prisoner, who is charged with having killed the deceased by striking or poking him with a Bamboo stick, is recommended to be sentenced to 3 months' imprisonment with hard labor in irons, while the 2d who aided and abetted the 1st is released for want of proof to convict him.—

/ Here enter F. H. N° 2165 of 1858 /

The Court of Foujdaree Udalut concur with the Agent in the conviction of the 1st Prisoner in the case, of Homicide and in the sentence of 3 months imprisonment with hard labor in irons proposed to be passed upon him.—

2 They also concur in the acquittal and release of the 2d Prisoner.—

Read return dated the 13th October 1858, from the Sessions Judge of Salem, to the precept of the Foujdaree Udalut, under date the 8th idem, calling upon him to forward the original record in Case N° 47 of 1858, and

requiring

26th November 1858.—

requiring to be informed whether the vicarious testimony of the Prosecutor was taken under affirmation and accepted as evidence and also why the personal attendance of the Prosecutor was dispensed with.—

/ Here enter F. H. N° 1946 of 1858 /

The Foujdaree Udalut observe that altho the Vakeel was not allowed to "depose" beyond saying that "the deposition given by the Prosecutor before the police was true" yet that deposition was manifestly accepted as evidence without the sanction of solemn affirmation or the test of cross examination under circumstances which pre-eminently demanded that every precaution should be taken. Upon it alone the Acting Sessions Judge has founded his belief that the 1st Prisoner stands in a different position from the rest inasmuch as he availed himself of knowledge acquired in the service of the prosecutor's father, or as he appears to have understood in his own whereas the real assertion made by him that the 1st prisoner might have been employed by his father, is too vague even had it been given in evidence before the Court to warrant such a conclusion. Cross examination might, and as far as can be gathered from the record, in all probability would, have cleared from the prosecutor that he had himself lost sight of the deposit if he ever knew of its being made. And there is much reason

reason to suppose from the manner of the prisoners acting, that they may have supposed themselves to have discovered a store long forgotten by the owner and not have intended deliberate robbery of the property of a particular individual. Such idea would not of course justify their Conduct in stealing what they knew did not belong to them, but when taken into consideration with the other circumstances urged in their behalf by the Acting Session Judge may in the opinion of the Court be taken as warranting a mitigation of punishment greater than that proposed by him and they accordingly resolve to direct that the prisoners be severally sentenced to 6 months imprisonment with hard labor.

26th November 18

Rd 18.Q.

C. Chamier

F. 76.

Monday 29th November 1858. } At a Court of the Sonjedaree Udalut

Present

G. S. Hooper Esqre
J. Lo. Strange Esqre } Puisne Judges.
C. Re. Baynes Esqre

Read Calendar of Case No 26 of 1858 on the file of the Session Court of Chingleput.

(Here enter F. 76. No 2174 of 1858.)

As herein recommended,

1. The Court of Sonjedaree Udalut, resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said Case.

1 Abby kaw and 2 Chellum

Five years

The Court observe that the

2. sentence of the Session Judge should have contained the grounds of his judgment.

Read Calendar of Case No 65 of 1858 from the Session Court of Calicut.

(Here Enter F. 76. No 2173 of 1858.)

The

The Court of Foujdaree Udalut resolve to cancel the order requiring the prisoners to produce security It has not been passed in consideration of any thing established against them, the evidence adduced against them having been rejected as untrustworthy.

Read Calendar of Case No. 65 of 1858 on the file of the Session Court of Salem.

Here enter F. M. No. 2178 of 1838

As herein recommended, the Court of Foujdaree Udalut, resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said Case.

Solia pa Cumalo five years.

Read Calendar of Case No. 23 of 1858 on the file of the Session Court of Honore.

Here enter F. M. No. 2187 of 1858

As herein recommended, the Court of Foujdaree Udalut, resolve to

authorize the Session Judge, to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said Case.

X Honnah alias Monah — one year.

Read Miscellaneous Petition presented on the 12th July 1858 by J. W. Branson Esqr and S. Teroomala charry Pleaderson behalf of B. Venkatamah prisoner in Case No. 28 of 1858 on the file of the Session Court of Bellary.

Here enter F. M. P. No. 106 of 1858

Read also Miscellaneous Petition presented on the 12th July 1838 by J. W. Branson Esqr and S. Teroomala charry Pleaderson behalf of Chinnaruppah Prisoner in Case No. 3 of 1858 of the above zillah.

(Here enter F. M. P. No. 107 of 1858)

Read again also Miscellaneous Petition presented on the 12th July 1838 by J. W. Branson Esqr and S. Teroomala charry Pleaderson behalf of B. Venkunnah Prisoner in Case No. 1 of 1858 of the above zillah.

Here enter F. M. P. No. 108 of 1858

Read also return dated 25th August 1858 from the Sessions Judge to the

Precept

Precpt. of the Foujdaree Udalut under date the 19th August 1858 calling upon him to state on what evidence he held it proved that the deceased in Case No. 1 of 1858 died of Cholera.

(Here enter F. Mo. No. 1660 of 1858)

Messrs. Strange and Baynes.

1 The Court of Foujdaree Udalut do not look upon the statements made tending to show that the deceased died of Cholera, and herein described to be of a nature so convincing of the facts as to warrant the conviction of the parties in Calendar Cases Nos. 1-3 and 28 of 1858, of perjury because of their depositions that her death was caused by strangulation

2 The Court resolve consequently to set aside the sentences in the said cases, and direct that the prisoners be discharged.

Precpt. in 11 days.

Read Miscellaneous Petition presented on the 9th August last, by J. D. Maynes Esqr. Pleader on behalf of C. Lutchmiah and others of zillah Nellore

(Here enter F. Mo. P. No. 1773 of 1858)

Read

29th November 1858.

Read also return dated 30th Ultimo from the Sessions Judge of Nellore to the Precpt. of the Foujdaree Udalut under date the 18th idem, directing him to reopen the investigation of Calendar Case No. 5 of 1858 to clear up certain doubts.

(Here enter F. Mo. No. 2041 of 1858)

On perusal of the foregoing return,

Messrs. Strange and Baynes.

the Court of Foujdaree Udalut see no ground to comply with the Petitioner's prayer which is accordingly rejected.

Read again. Miscellaneous Petition presented on the 27th September 1858, by J. W. Branson Esqr. Pleader on behalf of Venkatareddy Naick and others, of zillah Madura.

(Here enter F. Mo. P. No. 1761 of 1858)

Read also return dated the 30th September 1858, from the Acting Sessions Judge of Madura to the precpt. of the Foujdaree Udalut under date the 27th idem calling upon him to explain why he declined to furnish the Petitioner Venkatareddy with a copy of the order passed on the Petition of one Venkiah.

(Here enter F. Mo. No. 1876 of 1858)

Read also Miscellaneous Petition

Petition presented on the 18th October 1858,
by I. W. Branson Esqre. Pleader on behalf
of Vencataredry Naick and others of zillah
Madura.

Herr enter S. M. P. No 181 of 1838.

1 The Petitioners were charged Messrs Strange and Boyce.
by one Venkiah, Prosecutor in No 17 of 1838 on
the file of the Session Court at Madura
with having been concerned in the theft
which forms the subject of that case. The
Head of Police dismissed the charge, and
his proceedings on appeal were confirmed
by the Acting Assistant Magistrate. The
Prosecutor then took the matter before the
Acting Session Judge who has required
the Acting Assistant Magistrate to reapprehend and commit the Petitioners.

The Court of Foujdaree Adalut
2 observe that such an injunction as has
been issued by the Acting Session Judge can
only be warranted by very clear grounds
calculated to show that the ends of justice
have not been met owing to manifest failure
on the part of the committing authority. a
Judge in taking such a step assumes for
the

the time the position of public prosecutor,
one scarcely compatible with that of judge.
His grounds for appearing in that capacity
should not only be clear and weighty and
called for imperatively by the interests of
justice, but he cannot be too guarded in
his estimate of the evidence upon which
he acts, lest he may compromise himself
in his character of judge when the said
evidence has to come before him and to be
pronounced upon by him in that position.

The Petitioners Coudama Naick
3 and Thamalinga Naick represent themselves
to be cousins of the Prosecutor Venkiah.
The Petitioners Vencatadry Naick Sathoorian
Naick and Chinnamah Naick state that
they are connected with the preceding Petitioners and the Prosecutor by marriage.
all these assert that they have been for
years on bad terms with the Prosecutor.

The Petitioner Santhama charry states that
he was witness against the Prosecutor when
charged by the aforesaid Vencadry Naick
as being a leader of robbers. These are

allegations

allegations scarcely to have been made if construed, and the relative position of the parties was such as to have called for the utmost caution in receiving an accusation by the one against the others.

4 The Petitioners assert that the charge of theft is unfounded and was got up in order to give Cover to proceedings against themselves. A perusal of the Calendar in No. 17 leads the Court to believe that such may very possibly have been the case. There is no evidence to the commission of a theft but that to the discovery of Certain property in the possession of the parties then accused, and the Prosecutor's alleged ignorance that he had been robbed until told thereof by an informant has not the appearance of a true circumstance. The Court resolve to direct the Acting Sessions Judge to send up translation of the record of the said trial in order that they may judge of the propriety of his conviction of the prisoners in the Case.

5 The evidence against the present Petitioner is that just before the commission of the theft they were seen waiting for the 1st prisoner in the said case who was to point out to them where the property was kept, and that they were afterwards seen with him in a field where with the stolen property he carried off two boxes thereof, and the petitioners three boxes and a bundle. The said two boxes were afterwards found with the said 1st prisoner who on his defence has alleged that he received them from the Petitioners.

6 The view which the Acting Sessions Judge has taken of this evidence is by no means clear or consistent. In one place he appears to accept it as true and records opinions thereon which justify the petitioners in their complaint that he has prejudged their case. He assumes that had immediate search been made "the stolen property would most probably have been discovered in the possession of Coudama Naik and Chinnama Naik" (two of the Petitioners) He also holds the evidence of two of the witnesses to be "confirmed by the fact of two boxes having been found with Vattian (the 1st Prisoner in No. 17) who before the Court pleaded

pleaded be received thro from Condama Naick"
and that "there is reason to believe "the evidence
of two of the witnesses to be "true," "because con-
firmed "by that of the other two witnesses, and
the Conviction of the prisoners Vellian and others".
Again in another part of his proceedings the
Acting Sessions Judge records his belief that
"there appears little likelihood now of recovering
the property or convicting the accused" and
goes on to show that the effect of the evidence,
if confirmed before him, will be no more
than to warrant the requisition of security
from the accused, with the view to which
he directs their committal.

7 The Court observe that if
the evidence above adverted to is to be
believed it would call for the conviction
of the accused, and that if not to be accepted
nothing would remain upon which to justify
the requisition of security from them. The
Acting Sessions Judge's injunction for the
committal of the petitioners with the view
of placing them under security is thus shown
to be a step wholly unwarrantable, and

it

it is to be regretted that he should have
overruled the discharge of the accused by the
Acting Assistant Magistrate upon grounds so
insufficient and untenable.

The Court furthermore are

8 of opinion that the evidence offered against
the petitioners is on the face thereof of a very
questionable nature. It is that of persons
described by the Acting Sessions Judge as themselves
accessaries to the theft, a species of evidence
always to be mistrusted unless otherwise
amply corroborated, but to this evidence
no extraneous support appears.

The Court resolve under the

9 circumstances of the case to overrule the Acting Sessions
Judge's order and directs that the Petitioners if arrested
be set at liberty.

Peremptorium days

Ed 18 D. C. Chamier

Tuesday
30th November 1858.

F. C.

At a Court of the Foujdaree Udalut.

Present.

G. S. Hooper Esqre.
J. L. Strange Esqre.
C. R. Baynes Esqre. } Puisne Judges.

Read letter from the Session Judge of Chittoor dated 15th November 1858, forwarding copy of his proceedings of the 11th August, and requesting the opinion of the Court on the course to be pursued in holding to security parties of the description specified in Clause 3 Section VIII Regulation VI of 1827.

/ Vide Inter F. C. No. 2124 of 1858 /

1. The Court would point out that in cases of the description referred to in the Session Judge's letter, it was clearly intended by the legislature that the Magistrate should not act at all under Clause first but proceed at once under Clause 3 Section VIII Regulation VI of 1827. The neglect of the Joint Magistrate to adopt the proper course in the first instance in the case that has given rise to this reference has created a difficulty, which however the Court are of opinion may be got over without any violation.

violation of the spirit of the Law or injustice to the party concerned, and with a view to this end they would suggest that the record be laid before the Session Judge as prescribed in Clause 4 Section VIII, and that he make such orders thereon as he may deem proper under Clause V both with respect to amount and time of security, apprizing the parties at the same time of their liability to still further detention under the provisions of Section IX of the same Regulation.

2. The Court concur with the Session Judge in his opinion that the amount of security and number of securities which the Magistrate may demand under Section VII of Regulation quoted are left to his own discretion, and are not limited as the joint Magistrate would appear to consider.-

C. S. Cranmer

Jr. Asst.

F. No.

Wednesday 1st December 1858.

At a Court of the Fouzdaree Adalut.

Present

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read Calendar of Case No. 33 of 1858 on the file of the Sessions Court of Trichinopoly.

(Here enter F. No. 2205 of 1858.)

As herein recommended, the Court of Fouzdaree Adalut resolve to authorize the Sessions Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.-

x Perianmal. — Two years.

Read Calendar of Case No. 46 of 1858, on the file of the Sessions Court of Combaconum.-

(Here enter F. No. 2199 of 1858.)

As herein recommended, the

the Court of Fanjdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.-

Read Calendar of Case No. 68 of 1858 on the file of the Session Court of Tinnevelly.-

/Here enter F. C. No. 2204 of 1858./

As herein recommended, the Court of Fanjdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.-

Read Calendar of Case No. 92 of 1858 of the Session Court of Bellary.-

/Here enter F. C. No. 2198 of 1858./

The Court of Fanjdaree Udalut

× Vydelinga Padiyachy — one year.

× 1. Caamaraa-dythaven and 2. Moattara-saathaven — Four years.

Udalut consider that two years' imprisonment, with hard labor in irons, will be sufficient punishment for the offence of which the prisoner in this case has been convicted, and they direct the Session Judge to reduce his sentence accordingly.-

Read Calendar of Case No. 68 of 1858 of the Session Court of Calicut.

/Here enter F. C. No. 2200 of 1858./

The Court of Fanjdaree Udalut are of opinion that a sentence of 18 months' imprisonment with hard labor in irons will be adequate punishment for the offence of which the Prisoner in this case has been convicted, and they resolve to call upon the Session Judge to reduce the sentence accordingly.-

2. If unable to concur with the Court in the propriety of the mitigated sentence now proposed, the Session Judge will be pleased to submit an English translation of

1st December 1858

of the entire Record of the case, for their consideration.-

Precept returnable within ~~six~~ days from and after its receipt.-

S. Chamier

Ed Hall.

F 110.

Thursday 2d December, 1858.

At a Court of the Fouzdaree Adalut.

Present.

G. L. Cooper, Esquire. }
T. L. Strange, Esquire. } Puisne Judges.
C. R. Baynes, Esquire. }

Read Miscellaneous -

Petition presented on the 20th September last, by S. Tirooomala Chetty, Pleader on behalf of Issa Naik Domingo & Rasquinha and others, of Zillah Mangalore.

Here Enter F. M. P. No 158 of 1858/-

Messrs Strange J. and Baynes.

This is an appeal from the order of the Sessions Judge, under date the 18th June 1858, confirmatory of that of the Assistant Magistrate, whereby the Petitioners are fined in a sum of 10 Rupees each, on a complaint of assault.-

The Court of Fouzdaree Adalut

2.

Adalut see no ground to question the propriety of the order of the Sessions Judge, and accordingly reject the Petition.-

Read Criminal reports of the Magistracy for the 3d quarter of 1858, submitted by the Sessions Judge of Calicut.

/Here enter Jl. No. 2218 of 1858/

1. Section XIII of the Cattle Trespass act provides that cases of this description should be forwarded to the Criminal Court for disposal; the sentence in this Number must therefore be cancelled. The Magistrate may use his discretion, with reference to the imprisonment already undergone, as to taking any further steps against the party.- Calendar I. No. "Rescue of Cat... seized under A... III of 1857."

2 The Magistrate cannot, on appeal, enhance the sentence of a Head of Police.- No. 70. "Assault

3. The Court have directed that the investigation into charges of Calendar the No. "Abuse of authority

of "Abuse of authority" should invariably be conducted by a European Officer.-

Read letter dated the 26th October 1858, from the Agent to the Governor of Fort St. George at Ganjam, referring for the final judgment of the Foujdaree Adalut, the record of Case No. 22 of 1858 of the Calendar of the Agent's Court.-

/Here enter Jl. No. 2161 of 1858/-

Mr. G. S. Hooper.

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner,

Cunnoo Bissoyee-

is sufficient to convict him of the crimes of Rebellion and Arson, do convict him thereof, and under the provisions of Sections II and III, Regulation I of 1834, sentence him to be transported to such place, or places beyond sea as the Governor in Council shall

shall appoint, there to be imprisoned and kept to hard labor on the public roads or other public works for and during the period of his natural life.

The Court of Foujdaree Udalut direct that their sentence in the trial No. 22 of 1858 from the Agent to the Governor in Ganjam, together with the whole of the proceedings held in the case, be transmitted to the Acting Secretary to Government in the Judicial Department, for the purpose of being laid before the Governor in Council, to the intent that the Court may, in conformity with the provisions of Regulation I of 1834, Section V, Regulation XXI of 1802, and Section V, Act No. V of 1841, receive the orders of Government before they direct their sentence to be carried into execution.—

Read Miscellaneous Petition presented on the 11th October last, by Messrs. Norton and Mayne

and D

and S. Teroomala Charry, Pleaders on behalf of Doraswamy Iyengar alias Venkatacharry and 3 others, Zillah Trichinopoly.—

(Here enter F. M. P. No. 168 of 1858.)

Petitioners appeal from the order of the Sessions Judge under date the 15th July 1858, whereby that officer refused to interfere with certain Proceedings of the Magistracy complained of by them.—

Read also Counter petition presented on the 3d November last, by J. W. Branson Esquire and V. Sadagopa Charry, Pleaders on behalf of Narasimha Tatacharry and others, of the above Zillah.—

(Here enter F. M. P. No. 188 of 1858.)

Messrs. Strange and Baynes.

The Court of Foujdaree Udalut see no ground for their interference in the matter, and accordingly resolve to reject the Petition No. 168 of 1858.—

Read Miscellaneous Petition presented

presented on the 18th October 1858, by
Anay Venkatarungiengar, Zillah
Trichinopoly.-

/Here enter F. M. P. No. 175 of 1858/.

1. Petitioner appeals from the order of the Session Judge under date the 15th July 1858, confirmatory of the decision of the Principal Sudder Ameen releasing the prisoners in Criminal Case No. 35 of 1858, on the ground that the charge preferred against them has not been brought home to them.- Mess^rs Shaw & and Baynes

2. The Fouzdaree Udalut observe that as charges of Theft and Riot were preferred, they ought to have been disposed of by the Session Judge; but they do not consider it necessary or expedient, now that the case has been referred to and tried by the inferior tribunal as one of assault, to direct the re-committal of the parties on those charges as prayed.-

3. The Court observe, however, that apart from the allegation of assault, the case involved a charge

charge of violent trespass, in the fact that the procession is said to have been conducted forcibly over ground decided to be within the privilege of the prosecutor's sect only; and that this matter should have been dealt with by the Principal Sudder Ameen.

Read again Miscellaneous Petition received on the 9th September 1858, through the Session Judge of Honore, from Sanaroo, appealing from the sentence of the Session Judge in Case No. 15 of 1858, wherein the Petitioner is 2d prisoner.

/Here enter F. M. P. No. 153 of 1858/-

Read also return dated 6th ultimo, from the Session Judge of Honore, to the precept of the Fouzdaree Udalut under date the 21st October, calling for an English translation of so much of the record in Case No. 15 of 1858 as affects the 2d prisoner in that case.-

/Here enter F. M. P. No. 2099 of 1858/-

1. The Court of Fouzdaree Udalut

2nd December, 1858

Adalut observe, upon consideration of the record, and of the Sessions Judge's return, that a robbery having taken place; information is obtained leading to suspicion of 1st Prisoner, who, on being taxed with the crime, admits it, gives up property, and names 2d prisoner and others as accomplices. The 2d, on being charged with the offence, is sworn by the Prosecutor, and the 1st, 2d, 3d and 4th witnesses to have at once admitted it, which appears to the Court he may naturally have done on finding that the 1st prisoner had betrayed him; and he is also proved by the evidence of the 7th and 8th witnesses to have subsequently repeated his confession in form before the Police officers.

2. There is not the slightest ground to suppose any ill will towards the second Prisoner, or that any violence was used; and he appears to stand exactly in the same

position

2nd December, 1858.

position as the 1st, except that in his case property given up by him is proved to belong to Prosecutor. This certainly is an additional circumstance; but one which the accusers could easily have simulated in the case of the 2d also had they been so minded; but on the contrary, in the search of the 2d prisoner's house, they all say that nothing but rupees were found, and that of two parcels of money the 2d prisoner said one was his own and the other constituted his share of the stolen property. This looks like truth, and not in the opinion of the Court the kind of confession they would have invented.—

3. Under all these circumstances, the Court of Sonjdaree Adalut see no ground for disturbing the sentence passed by the Session Judge, and accordingly reject the above Petition.—S.

C. T. Channè

C. Dale.

T. Ub.

Friday 3rd December 1858 } At a Court of the Foujdaree Udalut

Present

G. S. Hoopen Esquire
T. L. Strange Esquire } Puisne Judges.
C. R. Baynes Esquire

Read letter dated 16th Ultimo from the Session Judge of Masulipatam, submitting for the final Judgment of the Foujdaree Udalut the record of trial in case No. 58 of 1858 in the Calendar of the Session Court.

(Here enter T. Ub. No. 2215 of 1858.)

Offence charged, House breaking and Theft.

Mr. G. S. Hoopen.

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the Prisoners,

1st Cokkellegudda Speeramooloo.
2nd Panjurla Swamygaudoo.
and
3rd Dawpuary Ramoodoo.

are)

are not convicted on presumptive proof or on the evidence of credible witnesses, or on their own confession, of the crime charged, do acquit them thereof, and direct that they be set at liberty.

Ex 18d.

C. Chamier

Saturday
4th December 1858.

F. C.

At a Court of the Foujdaree Udalut.

Present.

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read Calendar of Case No. 57 of 1858 from the Session Court of Salem.

/Here enter F. C. No. 2229 of 1858/

The Court of Foujdaree Udalut.

decline sanctioning a mitigation of the sentence in this case. It is one of torch light robbery, carried out in a daring manner and the prisoners' accomplices in case XV of 1857 before the Special Commissioner have been adjudged to undergo the full penalty for the crime.

Read letter dated the 17th ultimo, from the Agent to the Governor of Fort St. George in Ganjam, reporting the release of the prisoners in Case No. 19 of 1858.

/Here enter F. C. No. 2225 of 1858/

The

4th December 1858.

The Court of Foujdaree Udalut

approve of the acquittal of the prisoners in this case.

E.D.

C.S. Cleveland

F.M.C.

Tuesday,
7th December 1858.

At a Court of the Foujdaree Udalut.

Present.

G.J. Cooper, Esquire
J.L. Strange, Esquire — Puisne Judges
C.R. Baynes, Esquire

Read Calendar in Case No. 90 of 1858 from the Sessions Judge of Bellary.

(Here enter F.M.C. No. 2250 of 1858)

Before passing orders in this case, the Court of Foujdaree Udalut direct that the Original record be submitted for their consideration.

Precept returnable within III days from and after its receipt.

Read letter dated the 20th ultimo, from the Agent to the Governor in Ganjam, recommending punishment to the 1st 2d 3d and 4th Prisoners, and reporting the release of the 5th 6th and 7th Prisoners in Criminal Case No. 26 of 1858.

(Here enter F.M.C. No. 2226 of 1858)

The

7th December 1858.

The Court of Foujdaree Udalut approve of the sentences proposed to be passed upon the four first Prisoners in this case, and in the release of the remaining prisoners.—

C. S. Chamier

Ex Dull.

Fdlo.

Wednesday 8th December, 1858. At a Court of the Foujdaree Udalut.

Present

G. L. Cooper, Esquire —
T. L. Strange, Esquire — } Puisne Judges.
C. R. Baynes, Esquire —

No. 34.

1. The Court of Foujdaree Udalut having had frequent occasion to remark upon the unsatisfactory manner in which Mr. R. R. Cotton, the Acting Session Judge of Madura, has performed his judicial functions, have considered it their duty to review the whole of his proceedings in that capacity.—

2. The conduct of Mr. R. R. Cotton as Acting Civil and Session Judge impresses the Court with a strong conviction of his unfitness for that high and important office.

Unable

unable, as it appears, to appreciate evidence, to profit by instruction, to receive correction with submission, or to control the impetuosity of his temper within bounds of decorum, the Court cannot contemplate his remaining as the chief judicial functionary of a large province with-out grave forebodings of ill conse-quence.—

3. The disqualifications enumerated above are fully proved by the records of the Court. When Mr. Cotton took his seat on the bench at Madura he found await-ing him a case of the gravest im-portance, and one calling for care-ful exercise of judicial caution, un-tempered, and discrimination; and the mind of the Judge could not but have been warned of the neces-sity for their exertion. This case was eventually referred for the final sentence of the Foujdaree Adalut, which

* Government Versus Seekaram and others. Calendar No. 81 of 1858. Vide Page 203 of the Foujdaree Adalut monthly Criminal decisions for 1858.

Vide paras: 4 to 9.

which after acquitting the prisoners, thought it necessary in their proceedings of the 21st May 1858 to make some ob-servations on its conduct before the lower tribunals, as well as the Act-ing Sessions Judge's part therein.—

4. But these were not the only errors of the Acting Sessions Judge in this matter. Although the pri-soners were not convicted, though he admits that in his own mind he held them guilty of an "Assault" only, although they were under heavy bail to abide the judgment on their trial, which had been removed into the Foujdaree Adalut, Mr. Cotton, notwithstanding the ur-gent remonstrances of counsel, cancelled their bail, and ordered them all into prison, thereby, as he ought to have known and felt, unwarrantably inflicting, on men whose guilt had not been pronounced upon, a punishment little less

dreaded

dreaded by them than death itself,
and constituting an irreparable in-
justice in the event of the trial
resulting, as it did, in their acquittal.
This grievous wrong was of course
put an end to as soon as communi-
cation could be had with this Court.

5. Furthermore, under the
pretext that the prisoners' counsel
had misrepresented facts, which
certainly they had no occasion to
do, in order if possible to prevent
his illegal cancellation of their bail,
he dismissed two of them from the
Bar. This act was of course also
overruled, but the injury done in
public opinion to the reputation of
justice cannot be thus repaired;
and it must be further observed,
as illustrating the want of temper
and decorum which is imputed
to Mr. Cotton, that one of the afore-
said Pleaders, having alleged in his
Petition that the Judge "had in open

"Court

"Court torn and flung down the
"Vakalutnamah under which they
"prayed on behalf of their clients;" the
Foujdaree Adalut, unwilling to be-
lieve that a judicial functionary
could so far have forgotten himself,
refused to restore that petitioner to
office until they had ascertained by
reference to the Judge himself, whether
the petitioner had calumniated him.
He replied, "that he might have torn
the paper;" upon which of course the
Court reinstated the petitioner.

6. Although the Court con-
sider these facts strongly indicative
of judicial incapacity, they would
not pronounce that sentence upon
them, if they stood alone. Ignorance,
passion, or other cause, not likely
to affect other cases, might be sup-
posed to have operated in this par-
ticular instance, and such excuse
would derive strength if similar
faults were not discoverable in
others.

Thus

7. Thus, in No. 61 of his Calendar for 1858, Prisoners were convicted and sentenced to fourteen years' imprisonment upon evidence, which, in releasing them, the Foujdaree Adalut found it necessary to comment on in their Proceedings of the 11th* October 1858.

8. The Proceedings held by the Court in Cases Nos.* 38, 51 and 52 and on Foujdaree Adalut petition No. 181 of 1858 are further illustrative of Mr. Cotton's inability to appreciate evidence, and such instances occurring so frequently within a short range of time appear to the Court to demonstrate Mr. Cotton's misjudgments to be of an habitual order.

9. Nor does Mr. Cotton display any sense of his deficiencies or desire to improve by correction and instruction. So far from this being the case, their records show that he not only remains unconvinced of

error

* Government versus Maikee and others. See page 345 of the Foujdaree Adalut monthly Criminal decisions for 1858.

* pages: 1 to 8.

error but habitually maintains and vindicates his own proceedings, in a manner indicative of hopeless incorrigibility.

10. A striking specimen of this disposition is afforded by the correspondence between himself and the Court relative to Case No. 38, in which he failed to observe that a prisoner had made confession before the Acting Joint Magistrate. It was might have been expected that a Judge having made such mistake would have expressed regret for his negligence. Mr. Cotton however in reply to the Court's observation that he ought to have become acquainted with the fact of the confession, if not before, at least when he certified the accuracy of the translation thereof, which he submitted to the Court, turned round upon the superior authority, for supposing him responsible for the discharge of so obvious

8th December, 1858

obvious a duty as that of perusing the records, and affecting to misunderstand their observations, gave rise to remarks conveyed to him in the proceedings of the Court under date the 10th ultimo and previous proceedings.

11. This leads the Court to mention another case in which they consider Mr Cotton's unfitness for his position to be strongly manifested, viz^t, that of Arnasamy Iyen, a Gomastah of the Civil and Sessions Court, upon whom he very unfairly sought to throw the blame of his own ignorance of the fact of the confession above mentioned, as if it were a part of his duty to point out to the judge what prisoners had confessed or not, when he had the translations before him; or, as if Mr Cotton had any more right to say that the Gomastah had corruptly forborne to do so, than the Gomastah to reply on him that he had designedly suppressed the fact.

In

8th December, 1858.

In conclusion the Court would draw attention to the whole conduct of Mr Cotton in regard to the said Arnasamy, as finally animadverted on in their proceedings of the 23rd September last as in itself a proof of inability to preside with fairness and discretion over a large office.

12. The Government will remember, that Mr Cotton's qualifications for the bench have already been twice called in question, once by the despatch of the Honorable the late Court of Directors in the Judicial Department of the 31st January, No. 1 of 1856, on the occasion of his dispute with the Revd Mr Lechler, and again by the proceedings of the Fouzdaree Adalut of the 2nd July 1857 which resulted in his removal by the Government from the situation held by him as Acting Civil and Sessions Judge of Rajahmundry. In commenting as they

they have done on Mr Cotton's faults, the Court do not overlook merits and good qualities which they believe him to possess. They believe he wishes to do right, and is in his way zealous, and disposed to work; and that his defects are so a part of his mind and temper that he may be held to a certain degree irresponsible. The Court would not therefore urge the Government to punish him, as though for acts done wilfully against better judgement, but simply to employ him in a capacity, where qualities absolutely indispensable to the judicial office, may not be so essential.

To Government.

and

Acting Session Judge of Madura.

Ex Ell.

C. S. Chamier

F. No.

Thursday 9th December 1858.

At a Court of the Foujdaree Adalut

Present.

G. L. Hooper, Esquire
T. Le Strange, Esquire
C. Re. Baynes, Esquire
} Puisne Judges

Read letter under date the 29th ultimo, from the Acting Session Judge of Trichinopoly, forwarding English translation of the record of Case No. 37 of 1858 on the Calendar of the Session Court, for the final judgement of the Court of Foujdaree Adalut.—

(Here enter F. No. 2239 of 1858)

Mr G. L. Hooper
Mr T. Le Strange

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoners,

1st Marooday and
2d Mottoo Cunnoo

is sufficient to convict them of the offence* charged, do convict them thereof; and under the

* Murder.

the provisions of Section X, Regulation VIII of 1802, sentence them to suffer death by being hanged at the usual time and place of execution.—

Read Calendar of Case No. 55 of 1858 on the file of the Session Court of Cuddalore.—

(Here enter F. Mc. No. 2258 of 1858)

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.—

× Peregapien. Five years.

Read Miscellaneous Petition presented on the 3d November 1858, by J. W. Branson Esquire, Pleader on behalf of Hydersaib and 2 others of Zillah Chittoor.—

(Here enter F. Mc. P. No. 189 of 1858)

1 Petitioners appeal from the sentence passed upon them by the Session Judge in Case No. 2 of 1858, wherein they were 1st 2d and 3d prisoners.— Mr. G. S. Hooper v. Mr. T. Le Strange

2 The Court of Foujdaree Udalut see

see nothing in this petition which would induce them to call in question the propriety of the sentence appealed from, and accordingly resolve to reject the petition.—

Read Miscellaneous Petition presented on the 28th October 1858, by Mr. Vencatarogaloo Naidoo, Pleader on behalf Soobbaramanya Pillay, of Zillah Tinnevelly.—

(Here enter F. Mc. P. No. 186 of 1858)

Mr. G. S. Hooper and Mr. T. Le Strange 1 Petitioner appeals from the order of the Session Judge under date the 6th April 1858, confirmatory of the order of the Head Assistant Magistrate, whereby the Petitioner was fined in a sum of 3 Rupees on a charge of trespass.—

2 The Court of Foujdaree Udalut see no reason for their interference in the matter, and accordingly resolve to reject the Petition.—

Read Miscellaneous Petition presented on the 10th ultimo, by J. W. Branson Esquire, Pleader on behalf of Aroonachellarow, of Zillah Tinnevelly.—

(Here enter F. Mc. P. No. 191 of 1858)

Mr. G. S. Hooper and Mr. T. Le Strange 1 Petitioner appeals from the order of the Session Judge under date the 18th September 1858, confirming the Acting Magistrate's order whereby the Petitioner as well as three other prisoners in Case No. 4 of 1858 on the file

file of the Magistrate, was required to find security in the sum of Rupees 200 for keeping the peace.—

2 The Court of Foujdaree Udalut observe that the prisoners in the case in question have been subjected to a requisition of security to keep the peace by the Acting Magistrate upon no other ground than that they have defended their own property from aggression. As such conduct on their part is justifiable in law, the Court resolve to direct that the security bonds taken from them be cancelled.—

Read Miscellaneous Petition presented on the 8th November 1858, by Veeramala Chary, Pleader on behalf of Pichamma Pundithen, of Zillah Tinnevelly.—

(Here enter F. Mc. D. No. 194 of 1858)

1 Petitioner appeals from the order of the Sessions Judge under date the 9th August 1858, directing the Acting Magistrate, in reversal of the order of the Acting Head Assistant Magistrate dated the 22d June last in case No. 216 of 1858, to collect from the Petitioner, the 1st Defendant,

Mr. G. L. Hooper and Mr. T. L. Strange

and make over to Sungaralingum Chetty, Prosecutor, the value of the crop in question, together with the land on which it was raised, leaving the Petitioner at liberty to bring a regular suit, if he has any claim thereto.—

2 The Court of Foujdaree Udalut are of opinion that the order of the Acting Head Assistant Magistrate referring Sungaralingum Chetty, the Plaintiff in the suit in question, to a fresh suit to establish his right to the land, which the petitioner has held possession of, was correct, and that the Sessions Judge has erred in throwing upon the Petitioner the burden of raising such a suit. In the cause in question, petitioner does not appear to have been a party, and he therefore cannot be bound by the decree then obtained by the Plaintiff. The Court resolve consequently to set aside the order of the Sessions Judge, and to uphold that of the Acting Head Assistant Magistrate.—

Read Criminal reports for the month of October 1858, submitted by the Sessions Judge of Bellary.—

(Here enter F. Mc. No. 2192 of 1858)

The Criminal Judge was not competent

No. 232.
"Escape."—

9th December 1858

competent to pass sentence in this case, which should, under the provisions of Sections I and III of Act V of 1858, have been committed to the Session Court. The sentence must therefore be cancelled, and the party committed for trial before the Session Court. —

Ed Reid.

C. H. Chamier

F. H.

Saturday 4th December 1858.

At a Court of the Fouzdaree Udalut

Present

G. S. Hooper Esqre —
T. L. Strange Esqre — Puisne Judges.
C. R. Baynes Esqre —

Read Calendar of Case No. 91 of 1858.

on the file of the Session Court of Madura.

/ Here enter F. H. No. 2261 of 1858 /

As herein recommended, the Court of Fouzdaree Udalut, resolve to authorize the Session Judge, to issue his warrant for the imprisonment, of the prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case —

1 Palany
2 Aeriem
3 Nellagum
4 Madury
4 Years

Read letter dated 30th November 1858, from the Session Judge of Tellicherry, submitting for the final judgment of the Fouzdaree Udalut, the record of case No. 21 of 1858, on the Calendar of the Session Court —

/ Here enter F. H. No. 2272 of 1858 /

The Court of Fouzdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner —

Offence charged
Culpable Homicide

vs G. S. Hooper.

Arrakandiley Chamen

vs

11th December 18

is sufficient to convict him of the offence charged, do convict him thereof; and under the provisions of Clause Second Section XV Regulation VII of 1802, 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 [7] seven years.

Ex. 18.

C. S. Chemie

F. C.

Monday 13th December 1858.

At a Court of the Foujdaree Adalut.

Present

G. S. Cooper Esquire,
J. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read Calendar of Case No. 67 of 1858 on the file of the Session Court of Salem.

[Here enter F. C. No. 2274 of 1858.]

As herein recommended, the Court of Foujdaree Adalut resolve to authorize the Sessions Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

*Vencatasamy — Four years.

Read letter from the Acting Sessions Judge of Cuddalore dated 30th November 1858, requesting to be informed whether the proceedings of the Court of the 13th November ruling

ruling that the offence of rescuing cattle seized under the cattle tres-pass act can only be dealt with by the Criminal Courts, are to be considered as superseding the Courts ruling on the same subject of the 4th November 1857.

/Hereunder F. No. 2237 of 1858./

The Court are of opini-on that under the provisions of act III of 1857 all cases of the a-bove nature, however trifling, must be committed to the Crimi-nal Court for disposal; their proceedings of the 13th November will therefore supercede the former ruling referred to by the Sessions Judge.-

Read Miscellaneous Petition presented on the 13th Instant by J. W. Branson Esquire and V. Sadagopa Charlu, Pleaders on behalf of Soobbummun of Zillah Salem.-

/Here enter Mo. P. No. 204 of 1858./

Petitioner

Messrs Hooper and Strange.

Petitioner appeals from the sentence of the Sessions Judge in Case No. 44 of 1858 wherein he is prisoner, and requests, that that sentence may be cancelled. He further prays that the Sessions Judge may be instructed to furnish him with copies of the evidence for prosecu-tion, which, he says have been refused, tho' applied for.-

The Court of Foujdaree Adalut resolve to direct the Sessions Judge of Salem to allow the pri-soner to take copies of the evidence for the prosecution.-

Read Miscellaneous Petition presented on the 2nd Sep-tember last by J. B. Norton Esqre Barrister at Law, on behalf of Ackum Condoo, Zillah Cuddapah.-

/Here enter Mo. P. No. 146 of 1858./

Read also return dated the 27th November 1858 from the Sessions

Sessions Judge of Cuddapah to the precept of the Faujdaree Adalut under date the 18th October last, directing the Sessions Judge to reopen Case No. 57 of 1857 should the examination of the witnesses cited by the petitioner, the 2d prisoner have been dispensed with without the permission of the Petitioner to re-examine such witnesses and pass a revised judgment.

/Here enter F. C. No. 2235 of 1858./

1. The Court of Faujdaree Adalut observe that the evidence of the witnesses who at the desire of the 2d Prisoner have been now examined, entirely fails to substantiate the fact put forward by the Prisoner in his defence. viz: "that an admission had been made to them by deceased that he was not among those who beat him." Mr Baynes

2. The other ground of exception

exception to the conviction viz: "that "witnesses who are credited when "they say they saw him beat deceased, are disbelieved when they make the same statement in respect of others" the Faujdaree Adalut consider to be insufficient. It is very possible that a witness may state various facts as within his knowledge or observation, and the judge, considering and appreciating his professed opportunities may consider him reliable as to some and not as to others: thus he may say A came into the room and beat me, and B stood in the passage: the Judge might receive the testimony as to A and reject it in the case of B.

3. The Faujdaree Adalut do not consider therefore that any reason is shown for disturbing the sentence passed in this case on the Petitioner,

Petitioner, and accordingly reject
the petition.-

Read letter dated 10th
December of 1858 from the Sessions Judge
of Chittoor submitting for the final
judgment of the Foujdaree Adalut the
record of Case No. 71 of 1858 on the Calen-
dar of the Session Court.-

/Here enter F. C. No. 2277 of 1858./

The Court of Foujdaree
Adalut, on a deliberate consideration of
all the circumstances of the case in
evidence before them, being of opinion
that the proof against the prisoners,

1st Samah
2d Ramjee
3d Angadoo
4th Chundah
5th Ramdoss
6th Bhundoo
7th Ramaadoo
8th and Chinna Ramjee

is sufficient to convict them of the of-
fence charged, do convict them thereof;

and

Mr Strange

Offence Charged,
Robbery by open
violence attended
with wounding.

and under the provisions of Clauses 3d
and 5th Section IV Regulation XV of 1803, con-
sentence them to be imprisoned and
kept to hard labor in irons on the
public roads or other public works for
and during the period of (8) eight years.-

Read letter dated 30th Novem-
ber 1858 from the Sessions Judge of Cuddа-
pah submitting for the final judgment
of the Foujdaree Adalut the record of Case
No. 59 of 1858 on the Calendar of the Session
Court.-

/Here enter F. C. No. 2266 of 1858./

The Court of Foujdaree
Adalut, on a deliberate consideration of
all the circumstances of the case in evi-
dence before them, being of opinion that
the proof against the prisoner,

Osmah Sahib.

is sufficient to convict him of the of-
fence charged, do convict him thereof;
and under the provisions of Clause 3d
Section VII Regulation XV of 1803 sentence
him to be imprisoned and kept to
hard

Mr Strange

Offence Charged,
Wounding with
intent to kill.

hard labor in irons on the public roads or other public works for and during the period of (10) Ten years.-

Read letter dated 3d December 1858 from the Session Judge of Mangalore submitting for the final judgment of the Foujdaree Adalut the record of Case No 29 of 1858 on the Calendar of the Session Court.-

/Here enter F. Mc. No 2271 of 1858./

The Court of Foujdaree Adalut, on a deliberate consideration of all the circumstances of the case in evidence before them, bring of opinion that the proof against the prisoners,

Mesrs Hooper and Bagnes.

Offence charged, Murder.

1st Coonha
and
2d Ramapoo

is sufficient to convict them of the offence charged, do convict them thereof, and under the provisions of Section X Regulation XIII of 1802, sentence them to suffer death by being hanged at the usual time and place of execution.-

Read Miscellaneous Petition presented on the 11th Ultimo, by J. D. Mayne Esqr, Pleader

Pleader on behalf of B. Narraidoo and others of Zillah Nellore

/Here enter F. Mc. P. No 195 of 1858./

Mesrs Hooper and Stranger.

1. Petitioners appeal from the sentence passed upon them by the Sessions Judge in Case No 18 of 1858 wherein they are Prisoners.-

2. The Court observe that the Sessions Judge states in his sentence that the 2d and 3d prisoners were identified among the robbers, the description of the evidence given in the deposition would show that no such statement has been made.-

3. The Court desire an explanation on this head. They further wish to know what particular sign may have been given to the robbers by the 1st prisoner, and how the circumstance that property was found in the house occupied jointly by the 1st 2d 3d and 4th prisoners affords proof that they all were concerned in the robbery.-

Precept returnable within days from and after its receipt.-

Ed 1859

Tuesday 11th. December 1855.

At a Court of the Zoujdaree Adalut

Present.

G. S. Hooper Esquire,
J. Sc. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read letter from the acting Session Judge of Madura, dated 29th. November 1855.

/Henry entry J. No. 2245 of 1855./

In this letter the acting Session Judge of Madura requests the opinion of the Court as to whether assessors in a Criminal trial are to be left entirely to themselves in giving their verdict, or whether, as before this has been given, the Session Judge should sum up the evidence and explain the law to them.

Circulars. 1.

The Court would observe

2.

that under Section XXXII, Act VII of 1843, parties may be summoned by the Session Judge to assist in Criminal trials

trials in two capacities; first as assessors, in which case they are members of the Court, Co-adjutor Judges proper, assist and consult with the presiding Judge during the trial, and at its close, can "discuss" with him the opinions they may have formed, and each may as show cause to call for a change of opinion on particular points or the case generally, until they arrive at a conclusion.

Secondly as jurors, whose "Verdict" is the opinion of the majority. The present reference of the Session Judge would appear to refer to parties sitting in this capacity, and the Court are of opinion that in their case the Judge should cause to be re-read any portion of the evidence they may desire to hear again; and, if he think it likely that they should err through ignorance on any point of law, he should explain it to them. Comment on the evidence, expressive of the Judge's own

own opinion of its credibility or otherwise, is objectionable, for obvious reasons, and also unnecessary, as they, in general, possess superior advantages for its proper appreciation.

Read again Miscellaneous Petition presented on the 12th July 1858, by J. W. Branson Esquire, Pleader on behalf of Chinnan and another, appealing from the sentence of the Acting Session Judge of Madura, in case No. 26 of 1858.

/Here enter F. M. P. No. 114 of 1858./

Read also return and Supplemental return dated respectively 7th September and 11th October 1858, to the precept of the Tondiarpet Udalut under date the 23d August 1858, calling for an English Translation in the above Calendar.

/Here enter F. M. C. Nos. 1718 and 1930 of 1858./

The Court of Tondiarpet

1. Messrs. Cooper and Baynes

Udalut have gone through the evidence to see if it be liable to the imputations cast

14th December 1858

cast upon it by the petition of appeal,
and altho' not supporting them in every
particular, there certainly appear such
improbabilities in the alleged circum-
-stances, and such material discrepan-
-cies in the oral testimony, as make
them feel the conviction to be very
unsafe. The charge was regarded
as false by those on the spot, and
the police authorities, to whose en-
-quiry it was submitted in Decem-
-ber 1857, and it was not till the end
of February 1858 that the prosecutor
sought and obtained a re-investi-
-tigation from the acting Magistrate.
Of this he was in no hurry to avail
himself, for it was not till the
21st. april that he was able to find
his witnesses and bring them on
before the Magistrate, having in the
interim once repudiated, and
subsequently re-adopted the ac-
-cusation.

2. It is said that on a bright

14th December 1858.

bright moonlight night, the prisoners,
well known men, of previous good
character, accompanied by 3 or 4 others,
made a hole in the wall by which
they effected an entrance into the
premises, and that there, unfastening
a door, they entered a dark room in
which pots were kept piled up, &c.
and without disturbing any one, &c.
took out of one of those pots a &c.
wooden box of a size to be worth
2 Rupees, containing property to the &c.
value of Rupees 151-12-; the prosecutor
having no reason to believe that they
or any one knew of its concealment.
With this box, no traces

3. of which have been discovered, some
are said to have got away; but the 1st.
prisoner, in retreating with a brass
pot, is said to have made a noise
which aroused the Prosecutor, who
instantly seized him; whereupon,
the prisoner seized him. At this &c.
juncture, an accomplice, the 2d. prisoner,
also

also well known to the prosecutor, is described by him as coming up, & giving him a slight blow on the head with a slender stick, and then running off without further effort to release his comrade. Two neighbours, 1st. and 2d. witnesses, are stated to have come to the prosecutor's assistance. Before the Police they stated they then saw only the prosecutor and 1st. prisoner struggling; before the Magistrate they had a glimpse of the 2d. prisoner running away; before the Session Court they state that after their arrival he came to the spot, delivered his single blow, and ran away!

4. In this respect the prosecutor is equally discrepant; and the witnesses on other points also vary so much, that the acting Sessions Judge was clearly right in setting aside their testimony as to the 2d. prisoner, and considering whether the fact of the 1st. prisoner

14th December 1858.

prisoner being caught by the prosecutor in his house, and by prosecutor, saying that the 2d. had escaped, was alone sufficient for conviction of both prisoners. He deemed that it was. But on deliberate review of all the facts, the Foujdarry Udalut cannot agree in so thinking. That the 1st. prisoner was seized by the prosecutor, and that the 1st. and 2d. witnesses found them struggling together, and that he then accused him, and his brother the 2d., with having come to rob his house, there is no reason to doubt: but that 1st. prisoner came with such purpose, or that the second came there at all, there is no satisfactory proof, but on the contrary, much reason for supposing that the object of the 1st. prisoner was intrigue, in which being detected, the prosecutor, as usual in such cases, preferred the charge of robbery. Under these circumstances, the

5.

16th December 1858

the Court of Foujdarre Udalut annul
the sentence, and direct the prisoners
to be unconditionally released.

Precept returnable within
11 days.

C. J. Channell

Ex. Dell.

F. No.

Wednesday, 15th December 1858.

At a Court of the Foujdaree Udalut.

Present

The Hon'ble W. A. Morshead, Esq. Chief Judge

G. S. Cooper, Esquire
T. L. Strange, Esquire
C. R. Baynes, Esquire
} Puisne Judges

Read Calendar of Case No. 52 of 1858 on the file of the Session Court of Nundial.—

(Here enter F. No. 2281 of 1858)

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.—

×Davood Sahib — One year

Read letter under date the 7th instant, from the Session Judge of Nundial, forwarding English translation of the Record of Case No. 37 of 1858 on the Calendar of the Session Court, for the final judgment of the Court of Foujdaree Udalut.—

(Here enter F. No. 2300 of 1858)

The

15th December 1858.

The Court of Foujdarre Adalut, Mr. C. R. Baynes on a deliberate consideration of all the circumstances of the case in evidence before them; being of opinion that the prisoner,

2. Poolliah,

is not convicted on presumptive proof, or on the evidence of credible witnesses, or on his own confession, of the Crime charged, do acquit him thereof, and direct that he be set at liberty.—

Ex Read.

C. R. Baynes

F. M.

Friday 17th December 1858.

At a Court of the Foujdarre Adalut

Present.

G. A. Hooper Esquire,
J. L. Strange Esquire,
C. R. Baynes Esquire,
} Puisne Judges.

Read again Miscellaneous Petition presented on the 18th October 1858, by J. W. Branson Esquire, Pleader on behalf of Vuccatadry Naick and others, of Zillah Madura.

(Here enter F. M. D. No. 181 of 1858.)

Read also return dated 7th instant, from the acting Session Judge of Madura, to the precept of the Foujdarre Adalut under date the 29th ultimo, calling for translation of the record in Calendar No. XVIII of 1858, and ordering the release of the Petitioners Condama Naick and others, if arrested.

(Here enter F. M. D. No. 2285 of 1858.)

On

On view of the statement of the evidence submitted by the acting Session Judge, the Court of Foujdaree Udalut see no grounds for interfering with the judgment passed by him in the case.

Read Calendar of Case No. 69 of 1858, on the file of the Session Court of Salem.

(Here enter F. Mo. No. 2282 of 1858.)

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

Read Calendar of Case No. 98 of 1858, on the file of the Session Court of Bellary.

(Here enter F. Mo. No. 2310 of 1858.)

As herein recommended, the Court of Foujdaree Udalut resolve to

Messrs. Harper and Strange

*herewith returned

*Chinnapilly Gounden — Six months

17th December 1858.

to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

*Bheemah — Four years.

Read Calendar of Case No. 49 of 1858, on the file of the Session Court of Tinnevelly.

(Here enter F. Mo. No. 2293 of 1858.)

As herein recommended, the Court of Foujdaree Udalut resolve to authorize the Session Judge to issue his warrant for the imprisonment of the prisoner for the period specified in the margin, in mitigation of the sentence passed upon him in the said case.

*Vellienmee — Seven years.

Read letter dated the 10th December 1858, from the Session Judge of Madial, submitting for the final judgment of the Foujdaree Udalut, the record of Case No. 38 of 1858 on the Calendar of the Session Court.

(Here enter F. Mo. No. 2312 of 1858.) Her

17th December 1858

Mssrs Strange and Baynes

The Court of Foujdaree Udalut, on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the Prisoners,

1st Singa,

2d Runga,

are not convicted on presumptive proof, or on the evidence of credible witnesses, or on their own confession, of the crime charged, do acquit them thereof, and direct that they be set at liberty.

Ex. Coll.

C. Chamier

F.M.C.

Saturday 18th December 1858.

At a Court of the Foujdaree Udalut

Present

G. J. Hooper, Esquire
T. L. Strange, Esquire
C. R. Baynes, Esquire
} Puisne Judges

Read Petty Calendars of the Magistracy for the third quarter of 1858, submitted by the Sessions Judge of Coimbatore.—

(Here enter F.M.C. No. 2302 of 1858)

Calendar I 1 Cases disposed of by the Magistracy under this Act should be entered in the monthly criminal reports, and the

No. 109 "Offence under Post-Office Act."—

A report should be submitted to the Sessions Judge within 48 hours as in cases disposed of under the extended powers.—

2 This remark applies also to the sentence of four months passed in No. 97.—

No. 110 "Breach of Trust"

3 The Court would point out to the Sessions Judge that the Magistrate has exceeded his powers in passing a sentence of a year's imprisonment, the

the utmost term which he was competent to award being six months; the sentence must therefore be amended with reference to this remark.—

4. The Court have to observe on the great delay that has occurred in forwarding these Calendars.—

Read Calendar of Case No. 15 of 1858 on the file of the Sessions Court of Chicacole.—

(Here enter F. Mc. No. 2315 of 1858)

As herein recommended, the Court of Foujdaree Adalut resolve to authorize the Sessions Judge to issue his warrant for the imprisonment of the 1st Poosurlah Ramaswamy Caddavala Pydaudoo Four years & Fifty Lashes. prisoners for the period specified in the margin, in mitigation of the sentence passed upon them in the said case.— 3d Caddavala Appezaudoo Two years and Twenty five Lashes. 4th

Read Miscellaneous Petition presented on the 1st instant, by Arthur Mc. Ritchie Esquire, Pleader on behalf of Achammah and others, Zillah Nellore.—

(Here enter F. Mc. P. No. 202 of 1858)

Petitioners

Mr. G. S. Hooper and Mr. T. Le Strange

Petitioners pray for a reconsideration of the sentence passed by this Court on the 5th March 1858, upon the 4th 5th and 6th Prisoners in Case No. 43 of 1857.—

2. The Court of Foujdaree Adalut see no ground to comply with the Petitioners' prayer, which is accordingly rejected.—

Read again petition presented on the 2d October, by J. W. Branson Esquire, Pleader on behalf of Ramasamy, 8th prisoner in Case No. 19, and 12th prisoner in Case No. 20 of 1858 on the file of the Sessions Court of Madura.—

(Here enter F. Mc. P. No. 147 of 1858)

Read again petition presented on the same day, by the same Pleader, on behalf of Sunkaramoorty a Pillay, 7th prisoner in the above case.—

(Here enter F. Mc. P. No. 148 of 1858)

Read again petition presented on the same day, by the same Pleader, on behalf of Meyeppen Servy, 9th prisoner in case No. 20 aforesaid.—

(Here enter F. Mc. P. No. 149 of 1858)

Read

18th December 1858.

Read again Petition presented on the same day, by the same Pleader, in behalf of Auzuppa Pillay and another, 8th and 10th prisoners in Case No. 20 aforesaid.—

(Here enter F. Mc. P. No. 150 of 1858)

Read also supplemental Return dated 1st instant, from the Acting Sessions Judge of Madura, to the Precept of the Foujdaree Udalut dated 14th October 1858, calling for an English translation of the record of trial in Cases Nos. 19 and 20 of 1858.—

(Here enter F. Mc. No. 2259 of 1858)

The Court of Foujdaree Udalut having attentively considered the matters set forth in the above petitions together with the record of trial connected therewith, see nothing which would justify their interference with the sentences appealed from, and they accordingly resolve to reject the Petitions.—

Ex. Dda.

C. S. Chamier

F. 46

Monday.
20th December 1858. At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esqre.
T. L. Strange Esqre.
C. Re. Baynes Esqre. } Puisne Judges.

Read Miscellaneous Petition presented on the 10th ultimo by Ramalingum and 2 others, Zillah Madura.—

(Here enter F. Mc. P. No. 192 of 1858)

Petitioners appeal from the sentence passed upon them in case No. 46 of 1858 on the file of the Sessions Court of Madura.—

Messrs. Strange and Baynes. 1

The Court of Foujdaree Udalut see 2 no ground to disturb the sentence in question, and accordingly resolve to reject the petition.—

Read Miscellaneous Petition received on the 9th November 1858, through the Session Judge of Salem, from Chengoden and another, of that Zillah.—

(Here enter F. Mc. P. No. 193 of 1858)

Petitioners appeal from the sentence passed upon them by the Session Judge in case No. 52 of 1858, wherein they were 1st and 2d prisoners.—

Messrs. Strange and Baynes. 1

The

20th December 1858.

2 The Court of Foujdaree Udalut see no reason to question the propriety of the sentence appealed from, and accordingly resolve to reject the petition.—

Read Miscellaneous Petition presented on the 15th ultimo, by V. Sadagopacharry, pleader on behalf of Ekkanatha Vaka Kymul Keseweonny, zillah Calicut.—

/Here enter F. M. P. No. 196 of 1858/

1 Petitioner prays for the interference of the Foujdaree Udalut to reverse the order of the Session Judge under date the 2d August 1858, confirmatory of the magisterial proceedings whereby the 2d defendant Nanonny was allowed to cut timber from the forest which is in the petitioner's possession.— Mr. Strange and Baynes.

2 The Court of Foujdaree Udalut see no reason for their interferance in the matter, and accordingly resolve to reject the petition.—

Ex. Ed.

C. Chamier

F. P.

Wednesday.
22d December 1858. At a Court of the Foujdaree Udalut

Present

G. S. Hooper Esq re
T. L. Strange Esq re
C. R. Baynes Esq re
} Puisne Judges.

Read again Miscellaneous petition presented on the 30th August last, by J. M. Branson Esq re pleader on behalf of Cavader Meera Rowten, prisoner in case No. 34 of 1858 on the file of the Session Court of Madura.—

/Here enter F. M. P. No. 138 of 1858/

Read again Miscellaneous petition presented on the same day, by the same pleader, on behalf of Cavader, prisoner in case No. 35 of 1858 on the file of the above Session Court.—

/Here enter F. M. P. No. 139 of 1858/

Read again Miscellaneous petition presented on the same day by the same pleader, on behalf of Curdar Samboo, prisoner in case No. 36 of 1858 on the file of the above Session Court.—

/Here enter F. M. P. No. 140 of 1858/

Read again Miscellaneous petition presented on the same day, by the same pleader, on

on behalf of Mahomed Ally, prisoner in case No 37 of 1858 on the file of the Session Court aforesaid.—

/ Here enter J. M. P. No 141 of 1858 /

Read also return dated the 9th November 1858, from the Acting Session Judge of Madura, to the precept of the Foujdaree Udalut under date the 4th October 1858, directing him to re-open Calendar Case No 34 of 1858 and pass a fresh sentence thereon, the present one being suspended in the interim; and also to submit a translation of the record, as also the original records of cases Nos 35, 36 and 37 of 1858.—

/ Here enter F. Uc. No 2095 of 1858 /

The Court of Foujdaree Udalut having attentively considered the records connected with the cases in question, see no grounds to interfere with the sentences appealed from, and accordingly dismiss the petitions.—

Read Criminal reports for the month of November 1858, submitted by the Session Judge of Chittoor.—

/ Here enter F. Uc. No 2323 of 1858 /

Looking to the value of the property stolen, the sentence in this case appears severe. There is nothing

Case No 320 Theft.

on

on the face of the charge to show why it should not have been disposed of by the police. The Session Judge is requested to send for the record and pass such orders thereon as he may deem fit.—

Read letter dated 11th instant, from the Agent to the Governor at Vizagapatam, submitting a summary report on a case of Burglary, and proposing that the prisoner be sentenced to 3 years' imprisonment with hard labor in irons, and 60 lashes with a cat-o-nine tails.—

/ Here enter F. Uc. No 2328 of 1858 /

The Court of Foujdaree Udalut approve of the conviction of the prisoner and of the sentence proposed to be passed upon him.—

C. S. Chamier

Ed Hall.

Thursday,
23d. December 1858.

J. U.

At a Court of the Foujdaree Udalut.

Present.

G. S. Hooper Esquire
J. L. Strange Esquire
C. R. Baynes Esquire
} Puisne Judges.

Read Miscellaneous Petition presented on the 22d. November 1858, by Mr. H. B. Saunders, Pleader on behalf of Macharum Burpiah and another, of Zillah Chittoor.-

/Here Enter F. M. P. No. 201 of 1858/

Petitioners pray that they may be heard thro' their Pleader in the matter of their Petition No. 170 of 1858, which they complain, has been disposed of by this Court on the 11th November 1858 during their Pleaders absence on leave.-

Mesrs. Strange and Baynes. /

The Court have heard the pleader on behalf of the Petitioners in No. 170, and see no grounds to disturb the order passed by them in the case.-

Read Miscellaneous Petition presented on the 23d. instant, by. V. Sadagopah Charry, Pleader on behalf of Vencataramanah Iyyen, Zillah Headurafs.-

/Here enter F. M. P. No. 214 of 1858/

Petitioner prays that the acting Pesion

Mesrs. Strange and Baynes. /

Sessions Judge may be instructed to return to him the certified copies of the Joint Magistrates' decisions produced with his petition* of appeal to the Sessions Court, but which Petitioner observes the acting Session Judge refused to give up, although he applied for them in view to petition this Court against the order passed by that officer.-

2 The Court of Foujdaree Adalut resolve to direct the Acting Sessions Judge of Madura to return to the Petitioner the attested copies of the Joint Magistrates' decisions above referred to.-

Read Miscellaneous Petition presented on the 18th November 1858, by Sankara Chany and others, Zillah Chittoor.-

/Here enter F. M. P. No. 197 of 1858/

1 Petitioners pray for the reversal of the order of the Sessions Judge under date the 25th September last, whereby that officer dismissed their appeal against the decision of the Joint Magistrate, on the score of delay.- Mess^rs. Strange and Bayhes

2 The Court of Foujdaree Adalut resolve to reject the petition, seeing no sufficient ground for their interference in Petitioners' behalf.-

Read

* No. 103 of 1858.

Road letter dated 15th. instant, from the Joint Magistrate of Cotacamund, reporting the occurrence on the night of 20th. ultimo, of a robbery without violence, when the Cash Chest of the Executive Inginer in charge of the Moodemallay Forest, Captain Morgan, containing Rupees 1783-6-4, was stolen from his office and dwelling house, and recommending that one or more of the Prisoners who have confessed be admitted to give evidence on conditional pardon.-

/Here enter F. M. P. No. 2369 of 1858/

The Court of Foujdaree Adalut observe that out of 11 persons implicated, two are still at large and 4 stand convicted by confessions before the Joint Magistrate and the delivery of stolen property. In order to convict the other five or some of them the Magistrate proposes to pardon and admit as evidence one or more of those thus convicted. The Judges do not see the advantage of this: and why it is considered more desirable to convict one than the other does not appear. Moreover, the conviction of the accused on such evidence, wanting corroboration, appears very doubtful.-

The Court are of opinion that the

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the proper course is to commit for trial those parties of whose guilt there is no doubt, and if one or more of the others who have confessed some knowledge of the matter will agree to give such evidence as may lead to the conviction of the rest, ie not only accuse them, but point to corroborating facts, the Judges would authorize the Joint Magistrate to admit them as approvers under a conditional pardon.

Read letter dated 11th December 1858, from the Acting Session Judge of Madura, submitting, for the final judgment of the Sunjdaree Udalut, the record of trial in Case No. 87 of 1858 of the Calendar of the Session Court.

/Here enter F. R. No. 2305 of 1858/

The Court of Sunjdaree Udalut, Wm. L. Hooper.

on a deliberate consideration of all the circumstances of the case in evidence before them, being of opinion that the proof against the prisoner

Candeesah Powlter

is sufficient to convict him of the offence charged, do convict him thereof, and under the provisions of clause 2d, Section IV, Regulation VI of 1822, sentence him to be imprisoned and kept to hard labor in irons on the public roads

23d. December 1858.

roads or other public works, for and during the period of (3) three years.-

Read letter dated the 11th Instant, from the Session Judge of Madura, forwarding copies of the Calendar of a Sessions case No. 51 of 1858, and recommending that the Head of police of Dropaud be removed or permitted to retire from his office.-

/Here enter F. R. No. 2319 of 1858/

Before passing final orders in this matter, the Court of Sunjdaree Udalut desire that the Magistrate's answer, as required by Clause 2d Section XXXIX Act VII of 1843, may be forwarded for their consideration.-

Precept in VIII days.

Exd Dda.

C. S. Chamier