

APPELLATE JURISDICTION (a)

Session Case No. 95 of 1862.

THE QUEEN *against* SUBBAYYA GUANDAN.

The High Court will not order a copy of the Judge's notes of the evidence and proceedings upon conviction in a criminal case to be furnished to the prisoner on the ground of alleged probable hardship. A fair *prima facie* case as to the irregularity of those proceedings, or the illegality or impropriety of the sentence or order, must appear, before the Court will call for or direct a return of the record of the proceedings.

1863.
January 5.
S. C. No. 95
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AT the sitting of the Court, *Ritchie* applied for an order directing the Sessions Judge at Madura to furnish a convicted prisoner, for whom *Ritchie* appeared, with a copy of the record of the evidence and proceeding in the case. Such copy, he said, the Judge had refused, and he grounded his application on the hardship likely to result from persistence in such refusal.

SCOTLAND, C. J. :—We cannot order the Judge to grant a copy of the record merely on the ground of alleged probable hardship. The law provides that we may call for and examine the record of any case tried by the Court of Session (b). But then there must appear to be at least a reasonable *prima facie* ground as respects either the irregularity of the proceedings, or the illegality or impropriety of the sentence or order passed. It appears, however, that there is now no record kept but the Judge's notes : they are substituted for what was called the record. There can, we think, be no objection to your having a copy of these notes if, as stated, the prisoner is willing to pay for it, and it appears to be reasonably required. The Court will express its opinion that the Judge ought under such circumstances to allow a copy to be given : this opinion will be communicated by the Registrar ; and we have no doubt the application of the prisoner, if renewed, will be complied with.

FRERE, J. concurred.

(a) Present Scotland, C. J. and Frere, J.

(b) Criminal Procedure Code (Act XXV of 1861) sec. 405.