

CHAPTER-III

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The study of the administration of criminal justice in Kolhapur State in 1894, the year in which Shahu Chhatrapati succeeded to the throne of Kolhapur, is an important part of the study of judicial administration in Kolhapur. Like the administration of civil justice, the administration of criminal justice in Kolhapur had two important aspects :

- A) Criminal Courts in Kolhapur Proper
- B) Criminal Courts in the Feudatory States.

These criminal courts had well laid down hierarchy and each court had distinct jurisdiction. It is intended to study in this chapter the powers and the jurisdiction of the criminal courts in the above mentioned areas.

A) CRIMINAL COURTS IN KOLHAPUR PROPER

In 1894, there were in all twenty criminal courts.¹ Among these criminal courts the Court of H.H. Maharaja was the highest.² Below this court there were in descending order Session Judge's Court, District Magistrate's Court, First Class Magistrate's Courts, Second Class Magistrate's courts and Third Class Magistrate's Courts.³



1) The Court of H.H. The Maharaja

Prior to April 2, 1894, there was the Court of the Political Agent and Southern Maratha country,⁴ as there was no Chhatrapati on the gadi of Kolhapur, from 1882 to 1894, in which period the 'Regency Council' administered the affairs of Kolhapur.⁵ After the accession of Shahu Chhatrapati to the throne of Kolhapur, the Criminal Court of H.H. the Maharaja was established.

In the contemporary sources, like the Administrative Reports and Gazettees of Kolhapur State there is no mention of the original jurisdiction enjoyed by the Court of the H.H. the Maharaja in criminal matters. There is, however, mention of the appellate jurisdiction exercised by the Court of H.H. the Maharaja. In the Administrative Report of the year 1894-96,⁶ it has been mentioned that out of the twenty five criminal cases decided by the Session Courts there were twelve appeals to Shahu Chhatrapati. It seems clear from this, that the court of the H.H. the Maharaja had appellate jurisdiction over the decisions given in the criminal cases by the Session's Courts. Out of the above mentioned twelve appeals the decisions in six cases were reversed; in three cases decisions were modified and in two the decisions of Session's Courts were confirmed. In the remaining one case appeal was referred back to the Session's Courts. The Court of the H.H. the Maharaja could, therefore, reverse, modify, confirm or refer back the criminal cases on which the decisions had been given by the Session's Courts.⁷

By the article number seven of the revised agreement of 1862, between the British government and Kolhapur State, the sentences of death were to be reported to the authority of British Government for confirmation.⁸ Shahu Chhatrapati in his letter from Panhala dated 14th November 1894 to Lord Harris, the Governor of Bombay, requested that the Governor should consider and recommend to the Viceroy that the powers enjoyed by the Chhatrapati before the agreement of 1862 should be restored to him.⁹ Shahu Chhatrapati pointed out that five Indian States, which were lesser in importance, in matter like area, population, revenue and the number of guns fired in honour, than the Kolhapur State, exercised the power of life and death in giving death punishment in certain criminal cases.¹⁰

Lord Harris the Governor of Bombay in his letter of 13th February, 1895, replying to the letter of Shahu Chhatrapati wrote, "I am now happy to inform your Highness that the Government of Bombay will be able to recommend to the Government of India that in some way or other full powers, as regards Kolhapur subjects, should be given to you."¹¹

The government of Viceroy ultimately took the decision in this matter by year 1895. Shahu Chhatrapati in his letter to Lord Sandhurst, the Governor of Bombay, communicated, "Recently Government have been pleased to restore to me life and death powers as a mark of confidence, in me, and as I believe I have competent officers and those troublous times have gone away. It

would, therefore, I trust seem not unreasonable if I request Government to restore me the residuary criminal powers."¹²

In his above mentioned letter from Kolhapur of 3rd November, 1895 to Lord Sandhurst, the then Governor of Bombay, Shahu Chhatrapati while thanking the Government for granting this right of capital punishment, raised the question of the residuary criminal powers. According to the Article No. Eight of the treaty of 1862, "cases involving imprisonment of more than seven years arising in the local limits of any feudatory were to be sent up to Political Agent for trial."¹³

The government of H.E. Lord Northcote, Governor of Bombay accepted the request of Shahu Chhatrapati. Accordingly a notification in the Kolhapur State Gazettee, dated 4th July, 1903,¹⁴ was made.

"It is hereby notified that the criminal business of the said feudatory jahagirs which was hitherto transacted by the Court of the Political Agent will be disposed of by the Courts of His Highness the Maharaja save in the cases specified below :

Cases which the Political Agent may be required by written request to be transferred to his court for disposal. Such cases occurring in the feudatory jahagirs and involving the

the punishment of death or imprisonment over seven years, will continue to be tried by the Court of the Political Agent and committed thereto through the Court of His Highness."¹⁵

B) CRIMINAL COURTS IN THE FEUDATORY STATES :

Kolhapur had under its control some feudatory States. These feudatory States had separate Criminal Courts to try criminal cases. The powers and jurisdiction of these criminal courts and their relationship with criminal courts in Kolhapur proper would form a significant part of the administration of criminal justice. The composition and jurisdiction of the criminal courts of the Pant-Pratinidhi (Vishalgad), Joshi-Ghorpade (Ichalkaranji), Ghatge (Senior) and Junior (Kagal) and Senapati Ghorpade (Kapashi) would be examined in the following pages.

1) Criminal Courts in Vishalgad Feudatory

In the Vishalgad feudatory, prior to 1894, the highest court was Political Agent's Court, which worked as Session's Court. It tried offences committed within the limits of the feudatory States and could give punishment with imprisonment upto seven years.¹⁶ The reference to the political Agent's court appears only in the Administrative Report of 1891-92.¹⁷

After the year 1892-93 there is no mention of the Political Agent's Court in the Administrative Reports.

The reference to the court of Pant-Pratinidhi of Vishalgad, however, occurs in the Administrative Reports of 1891-92 and afterwards. This court combined into one, the jurisdiction and powers of three courts viz, the revisionary court and appellate court and Session court.¹⁸

There was also in the Vishalgad feudatory the court of Nyayadhish "with all the powers of a District Magistrate as defined by the (British) Code of Criminal Procedure save and except the powers conferred by section 96 and 260 of the said Code."¹⁹

There was also the court of Second Class Magistrate at Vishalgad.²⁰ There were two Courts of Third Class Magistrates in the Vishalgad feudatory State. Out of which one^{was} at the town Malkapur²¹ and other at the town of Mahagaon.²²

The powers of the Third Class Magistrate at Mahagaon were, for the convenience of the people raised to those of Second Class Magistrate in the 1898-99.²³

In the Administrative Reports of the Kolhapur State there is statistical information which gives details regarding the decisions taken about the persons in the criminal suits. This information is available for the years 1892-93.²⁴

With the help of this information the following table (Table No. 2) has been prepared which will give clear understanding about the working of criminal courts in Vishalgad Jagir. in the decade, 1887-88 to 1898-99."²⁵

Table No. 2

Working of the Criminal Courts in Vishalqad Jagir

Details about the decisions taken regarding persons in the Criminal Suits

Sr. No.	Year	No. of cases that came before the Criminal Courts	Last Years Balance	Discharged without trial	Acquitted	Convicted	Committed to Higher Courts	Pending	Total
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1)	1887-88	88	-	69	-	19	-	-	88
2)	1890-91	168	-	34	102	32	-	-	168
3)	1891-92	-	-	-	-	-	-	-	-
4)	1892-93	304	-	34	180	89	1	-	304
5)	1893-94	-	-	-	-	-	-	-	-
6)	1895-96	328	1	154	115	50	-	10	328
7)	1896-97	285	-	86	119	63	-	17	285
8)	1897-98	252	6	58	97	95	-	2	252
9)	1898-99	249	-	163	-	81	2	3	249

ii) Criminal Courts in Ichalkaranji
Feudatory

In the Ichalkaranji feudatory there were by 1894, seven criminal Courts, out of which six had permanent tenure and seventh viz. Third Class Magistrate's Court at Manerajuri was of temporary nature, being established due to the plague epidemic.²⁶ These seven courts were as follows :

1. Criminal Court of the Chief or Ichalkaranji²⁷
2. Court of Nyayadhish,²⁸
3. Court of the Special Magistrate,²⁹
4. and 5. Two Second Class Magistrate's Courts,³⁰
6. and 7. Two Third Class Magistrate Courts.³¹

The Criminal Court of the Chief of Ichalkaranji was established in 1892-93, and had the combined powers of revisionary, appellate and Session Courts.³² The Court of Nyayadhish³³ was established in the year 1894-95.³⁴

The Court of the Special Magistrate in Ichalkaranji, established 1894-95³⁵ was abolished in the next year, that is, year 1895-96.³⁶ However, in its place a Court of Third Class Magistrate was established. The total number of courts in Ichalkaranji, therefore, remained the same, i.e. seven.

There were two Second Class Magistrates courts in Ichalkaranji, out of which one was that of the Karbhari of

Ichalkaranji,³⁷ and the other was that of Mamalatdar at Ajara.³⁸ Both these second Class Magistrates Courts were the initial Courts in Ichalkaranji, being established in the year 1887-88.³⁹ We cannot ascertain regarding the powers and jurisdiction of these Courts from the available sources. It has been, however, mentioned in the Administrative Reports of 1896-97 that the Second Class Magistrate in Ichalkaranji could pass orders of whipping the convicted criminals.⁴⁰

There were, by 1894, two Third Class Magistrates' Courts in Ichalkaranji.⁴¹ The Aval Karkun of Ichalkaranji was the Third Class Magistrate Court established in year 1887-88.⁴² The Court was, however, abolished in 1893⁴³ and therefore, was not functioning in 1894. In the year 1897-98 due to the spread of plague the Third Class Magistrate Court was established at Manerajuri.⁴⁴ The following table (Table No. 3) would reflect on the working of criminal courts in Ichalkaranji jaqir in the period from year, 1887-88 to year 1898-99.

Table No.3

Working of the Criminal Courts in Ichalkaranji Jagir

Details about the decisions taken regarding persons in the Criminal Suits

Sr. No.	Year	No. of cases that came before the Criminal Courts	Last Year Balance	Discharged without trial	Acquitted	Convicted	Committed to Higher Courts	Pending	Total
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1)	1887-88	304	-	79	104	116	-	5	304
2)	1890-91	344	7	95	147	87	-	15	344
3)	1891-92	411	-	104	167	122	4	14	411
4)	1892-93	670	-	299	44	121	3	203	670
5)	1893-94	641	183	377	115	131	-	18	641
6)	1894-95	658	18	348	129	116	2	63	658
7)	1895-96	748	63	368	230	143	2	5	748
8)	1896-97	568	-	382	24	133	-	29	568
9)	1897-98	477	-	204	94	177	1	1	477
10)	1898-99	926	-	329	143	330	27	97	926

iii) Criminal Courts in Gagan
Bawada Feudatory

In the Gagan-Bawada feudatory there were in 1894, four criminal Courts. They were the Gagan-Bawada Chief's Court, one First Class Magistrate's Court, one Second Class Magistrate's Court and a Third Class Magistrate's Court.⁴⁵

The Court of the Chief of Gagan-Bawada, the highest criminal Court in feudatory,⁴⁶ the earliest reference to which occurs in the Administrative Report of the year 1887-88, exercised the powers of the Session Courts. It had also been the jurisdiction of trying offences which could be punished with imprisonment upto seven years.⁴⁷

The Court of the First Class Magistrate, the Second Class Magistrate Court with the Karbhari of Ichalkaranji as the Magistrate, and one Third Class Magistrate's Court functioned in Gagan-Bawada Jahagir. The following table (Table No. 4) will throw light on the working of the courts in the jagir.

Table No.4

Working of the Criminal Courts in Bawada Jagir

Details about the decisions taken regarding persons in the Criminal Suits

Sr. No.	Year	No. of cases that came before the Criminal Courts	Last year balance	Discharged without trial	Acquitted	Convicted	Committed to Higher Courts	Pending	Total
1)	1887-88	78	-	55	14	8	1	-	78
2)	1890-91	37	-	-	26	11	-	-	37
3)	1891-92	67	-	-	49	16	2	-	67
4)	1892-93	38	-	-	24	8	4	2	38
5)	1893-94	38	-	-	20	15	2	1	38
6)	1894-95	38	-	-	20	15	2	1	38
7)	1895-96	33	10	13	6	-	1	3	33
8)	1896-97	49	-	21	14	-	11	3	49
9)	1897-98	143	-	75	7	33	28	-	143
10)	1898-99	-	-	-	-	-	-	-	-

iv) Criminal Courts in Kagal Feudatory

The Jagir of Ghatges of Kagal was partitioned into Senior and Junior. In the Kagal Senior feudatory there was only one criminal court which was established in the 1894-95. The criminal court of Chief of Senior Kagal, who was the younger brother of Shahu Chhatrapati by birth, exercised the same powers as the criminal courts of the Chiefs of Vishalgad, Gagan-Bawada and Ichalkaranji.⁴⁸

There was in 1887-88 the First Class Magistrate's Court in Kagal Senior.⁴⁹ The Karbhari of Kagal Senior exercised the powers of the Magistrate.⁵⁰ In 1894-95, when the separate criminal court of the Chief of Senior Kagal was established, the First Class Magistrate's court or the Court of Karbhari was given powers of District Magistrate.⁵¹ Thus the powers of the Karbhari court, which formerly enjoyed the powers of the First Class Magistrate, were raised to powers of a District Magistrate.⁵²

In addition to these courts, there were the Courts of Second Class Magistrate, which was established in year 1895-96,⁵³ and Third Class Magistrate's Court, with Aval Karkun as the Magistrate and established 1887-88,⁵⁴ were functioning in the Kagal Senior feudatory by the year 1894.⁵⁵

When the affairs of the Kagal Junior were under the direct management of Kolhapur Darbar,⁵⁶ there was only one criminal Court in Kagal Junior. It was Second Class Magistrate's Court.⁵⁷ During the year 1898, when the management of the Jagir was handed over to Dattajirao Ghatge Sarjerao, the decendent in the Kagal Junior family,⁵⁸ the number of courts^{was} raised two. Out of these two courts the Court of Sessions was presided over by Dattajirao Ghatge⁵⁹ and the Court of First Class Magistrate (The status of the previous Second Class Magistrates' was raised to First Class Magistrate) was presided over by the Karbhari⁶⁰ of Dattajirao Ghatge.

Table No.5

Working of the Criminal Courts in Kagal (Senior)

Details about the decisions taken regarding persons in the Criminal Suits

Sr. No.	Year	No. of cases that came before the Criminal Courts	Last Years Balance	Discharged without trial	Acquitted	Convicted	Committed to Higher Courts	Pending	Total
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1)	1887-88	326	-	102	24	32	6	162	326
2)	1890-91	141	-	91	-	50	-	-	141
3)	1891-92	149	-	-	91	50	8	-	149
4)	1892-93	212	-	-	136	74	2	-	212
5)	1893-94	417	-	-	236	58	1	22	317
6)	1894-95	337	-	121	43	73	-	-	337
7)	1895-96	249	-	161	35	47	1	5	249
8)	1896-97	361	-	201	11	111	7	31	361
9)	1897-98	291	-	2	126	137	23	3	291
10)	1898-99	267	-	138	34	89	1	5	267

Table No. 6

Working of the Criminal Courts in Kagal (Junior)

Details about the decisions taken regarding persons in the Criminal Suits

Sr. No.	Year	No. of cases that came before the Criminal Courts	Last years balance	Discharged without trial	Acquitted	Convicted	Committed to Higher Courts	Pending	Total
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	1898-99	59	-	19	6	33	-	1	59

v) Criminal Courts in Kapashi Feudatory

In the Kapashi Jagir of Senapati Ghorpade there was only one criminal Court. It was presided over by the Karbhari of the Saramjamdar of Kapashi.⁶¹ The Court of the Karbhari exercised the powers of the Second Class Magistrate.⁶²

The details regarding the criminal cases that were tried by the Karbhari of Kapashi from the year 1891-92 to 1898-99 are available, with the help of this information the following table is prepared which would reflect upon the working of criminal justice in the Kapashi Jagir in the late 19th Century.⁶³

Table No.7

Working of the Criminal Courts in Kapashi Jagir

Details about the decisions taken regarding persons in the Criminal Suits

Sr. No.	Year	No. of cases that came before the Criminal Courts	Last years balance	4.	5.	Discharged without trial	6.	7.	8.	9.	10.
		3.				Acquitted	Convicted	Committed to Higher Courts	Pending	Total	
1)	1891-92	153	-	58	30	47	1	17	153		
2)	1892-93	167	-	-	91	61	-	15	167		
3)	1893-94	68	-	-	42	24	-	2	68		
4)	1894-95	124	-	79	8	36	-	1	124		
5)	1895-96	101	-	60	7	31	1	2	101		
6)	1896-97	102	-	48	9	45	-	-	102		
7)	1897-98	106	-	45	13	47	1	-	106		
8)	1898-99	109	-	40	13	45	-	11	109		

NOTES

- 1) Administrative Reports of the Kolhapur State, 1893-94,
pp.60-61, Ibid, 1894-95, p.52, Ibid, 1895-96, p.6.
- 2) Ibid, 1897-98, p.44.
- 3) Ibid.
- 4) Ibid, 1891-92, p. 158, Ibid, 1892-93, p. 61, Ibid, 1893-94,
p.62.
- 5) S.M. Garge, Karveer Riyasat, (Poona : G.Y. Rane Prakashan
(2nd ed.), 1980), p. 536.
- 6) The Administrative Reports of the Kolhapur State, 1894-95.
p. 55.
- 7) Ibid.
- 8) A.B. Latthe, Memoirs of H.H. Shri Shahu Chhatrapati Maharaja
of Kolhapur, (Bombay : Times Press, 1924), pp. 96-97.
- 9) Dr. Vilas Sangave, Dr. B.D. Khane (ed.), Rajarshi Shahu Papers,
Vol. II, (Kolhapur : Shahu Research Institute, 1983), No. 28,
pp. 38-39.
- 10) Ibid.
- 11) Ibid, No. 46, p. 62.
- 12) Ibid, No. 99, p.121.
- 13) Ibid, p. 120.
- 14) The Kolhapur State Gazette, 1903, Vol. 16, No. 27, p. 106.
- 15) Ibid.
- 16) Administrative Reports of the Kolhapur State, 1891-92, p.9.

- 17) Ibid.
- 18) Ibid.
- 19) Ibid.
- 20) Ibid.
- 21) Ibid.
- 22) Ibid.
- 23) Ibid., 1898-99, p.9.
- 24) Ibid., 1892-93, pp.14-15.
- 25) Ibid.
- 26) Ibid., 1897-98, pp. 24-25.
- 27) Ibid., 1893-94, pp. 37₃8
- 28) Ibid.
- 29) Ibid., 1895-96, p.39.
- 30) Ibid., 1891-94, pp. 37-38.
- 31) Ibid., 1891-92, pp. 67-68.
- 32) Ibid., 1892-93, p. 39.
- 33) Ibid., 1894-95, p. 39.
- 34) Ibid., p. 35.
- 35) Ibid., 1895-96, p. 39.
- 36) Ibid., 1887-88, p. 34.
- 37) Ibid.
- 38) Ibid.
- 39) Ibid., 1896-97, p.23.
- 40) Ibid., 1893-94, pp. 37-38.
- 41) Ibid., 1887-88, p. 34.
- 42) Ibid., 1893-94, pp. 37-38.

- 43) Ibid, 1897-98, pp. 24-25.
- 44) Ibid, 1893-94, pp. 22-23, Ibid, 1895-96, p. 21.
- 45) Ibid, 1893-94, pp. 22-23, Ibid, 1984-95, pp. 22-23,
Ibid, 1895-96, p. 21.
- 46) Ibid, 1887-88, p. 13.
- 47) Ibid, 1894-95, pp. 19-20.
- 48) Ibid, 1887-88, p. 27.
- 49) Ibid.
- 50) Ibid, 1894-95, pp. 19-20.
- 51) Ibid.
- 52) Ibid, 1895-96, p. 27.
- 53) Ibid, 1887-88, p. 27.
- 54) Ibid, 1893-94, p.33.
- 55) Ibid, 1898-99, p. 24.
- 56) Ibid.
- 57) Ibid.
- 58) Ibid.
- 59) Ibid.
- 60) Ibid, 1898-99, p. 16.
- 61) Ibid.
- 62) Ibid, 1891-92, pp. 37-38; Ibid, 1892-93, p. 28; Ibid, 1893-94,
p. 28; Ibid, 1894-95, pp. 25-26, Ibid, 1896-97, p. 19;
Ibid, 1895-96, p. 33; Ibid, 1897-98, p. 21; Ibid, 1898-99,
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