

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2134 OF 2010

K.SIVARAJ & ANR.

...APPELLANT(S)

VERSUS

STATE OF TAMILNDU

...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO.150 /2017
(@ SPECIAL LEAVE PETITION(CRL.) NO. 10692/2010)

CRIMINAL APPEAL Nos.151-153/2017
(@ SPECIAL LEAVE PETITION (CRL.) .584-586/2017 (CRL.M.P. NO. 13987-13989)

CRIMINAL APPEAL Nos.154-155 /2017
(@ SPECIAL LEAVE PETITION (CRL.) NO. 2057-2058 OF 2012)

O R D E R

1. Heard learned counsel for the parties.
2. Permission to file SLPs is granted in SLP(Crl.)...../2010 (Crl.M.P. Nos. 13987-13989).
3. Delay condoned.
4. Leave granted.
5. Mr. Sivaraj (A-1), Mr. Sekar (A-2), Mr. Madhesh (A-3), Mr. Shanmugam (A-4) and Mr. Sakthivel (A-6) are the appellants before this Court challenging their conviction under Section 302/149 of the IPC and sentence to undergo life imprisonment along with fine and default sentence awarded to them for the said offence.

6. The case of the prosecution is that on 18.08.1992 at about 11.30 hours when the deceased Ramalingam was ploughing his land, the accused formed unlawful assembly armed with deadly weapons and assaulted the deceased with the common intention of murdering him due to previous motive. A-1 to A-4 assaulted the deceased with *Aruval* over his head and at the same time A-5 to A-23 assaulted the deceased with stones over his head and neck. A-6 assaulted the deceased with butt of a gun and cause the death of the deceased Ramalingam on the spot.

7. As many as 70 accused were charge-sheeted and sent for trial before the Trial Court but the Trial Court convicted 17 accused and acquitted the remaining accused. On appeal, the High Court upheld the conviction of five accused i.e. A-1 to A-4 and A-6. The reliance by the High Court is placed mainly on the evidence of PW-1 to PW-3 who were the eye witnesses. The accused questioned the credibility of the said witnesses but the High Court on re-appreciation accepted the said evidence and rejected the contentions raised on behalf of the accused.

8. With the assistance of the learned counsel for the parties, we have gone through the relevant records.

9. Learned counsel for the appellants submitted that PW-1 and PW-2 have not been believed by the High Court and the evidence of PW-3 is also not reliable. It is submitted that that there is previous enmity between the parties on account of which they have been falsely implicated.

10. Learned counsel appearing on behalf of A-6 submitted that only role attributed to A-6 is of causing injury by butt of gun when A-7 is also alleged to be armed with same rifle and since large number of persons have been named, there is a possibility of over-implication.

11. We have given our due consideration to the above submissions. We find that evidence of PW-1 to PW-3 has been concurrently accepted by the two courts below and on perusal thereof we do not find any ground to reject the said evidence as far as A-1 to A-4 are concerned. We find sufficient evidence in support of the prosecution case against A-1 to A-4. A-1 to A-4 have also been attributed their individual involvement in the crime and their role is fully established. However, as regards A-6, we are inclined to give benefit of doubt to him for the reasons mentioned above. Accordingly, we allow the appeal of A-6 viz. Sakthivel and acquit him. He may be released from custody if not required in any other case.

12. The appeals of A-1 to A-4 are dismissed but their conviction is now altered to Section 302/34 of the IPC. The sentence awarded to them is maintained.

13. In view of the disposal of the above appeals, no further order is necessary in the appeals filed by the complainant - B.Muniraj which also stands disposed of.

.....J.
[ADARSH KUMAR GOEL]

NEW DELHI
19TH JANUARY, 2017

.....J.
[UDAY UMESH LALIT]

ITEM NO.104

COURT NO.11

SECTION IIC

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2134/2010

K.SIVARAJ & ANR.

Appellant(s)

VERSUS

STATE OF TAMILNDU
(With office report)

Respondent(s)

WITH
SLP(Crl) No. 10692/2010
Office Report)SLP(Crl.).....CRLMP No. 13987-13989/2010
(Permission to file SLP and appln. For condonation of delay)SLP(Crl) No. 2057-2058/2012
(With Office Report)

Date : 19/01/2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s) Mr. V. J. Francis,Adv.

 Mr. Sriram J. Thalpathy,Adv.
 Ms. N. Shoba,Adv.
 Mr. V. Adhimoolan,Adv.

 Mr. M. Vijaya Bhaskar,Adv.

 Mr. Rakesh K. Sharma,Adv.

 Mr. A. Radhakrishnan,Adv.

For Respondent(s) Mr. M. Yogesh Kanna,Adv.
 Ms. Nithya,Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

Permission to file SLPs is granted in
SLP(Crl.)...../2010 (Crl.M.P. Nos. 13987-13989).

Delay condoned.

Leave granted.

we allow the appeal of A-6 viz. Sakthivel and acquit him. He may be released from custody if not required in any other case.

The appeals of A-1 to A-4 are dismissed but their conviction is now altered to Section 302/34 of the IPC. The sentence awarded to them is maintained.

In view of the disposal of the above appeals, no further order is necessary in the appeals filed by the complainant - B.Muniraj which also stands disposed of.

(Madhu Bala)
Court Master
(Signed order is plaCed on the file)

(Veena Khera)
Court Master