

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 303 OF 2007

MURUGAN & ANR.

.....

APPELLANTS

VERSUS

STATE REP. BY SUB INSPECTOR
OF POLICE

.....

RESPONDENT

O R D E R

The accused, initially nine in number, were brought to trial before the Sessions Court for offences punishable under Sections 302/149 etc. of the Indian Penal Code and were sentenced to life and to various other terms of imprisonment. An appeal taken to the High Court was also dismissed.

A Special Leave Petition was thereafter filed in this Court by seven of the accused and while leave was granted with respect to Murugan and Vellathai, who are the appellants before us, the petition qua the other accused was dismissed. The present appeal is thus confined only to Murugan and Vellathai.

Mr. M. Gireesh Kumar, the learned counsel for the appellants has raised only one argument during the course of the hearing. He has pointed out that even as per the

evidence recorded by the courts below no active role whatsoever had been attributed by P.Ws. 1, 2 and 3 (who were the only eye witnesses to the incident) as they had deposed that Vellathai had merely instigated the other seven accused to attack and kill the deceased for the humiliation that she had suffered at his hands about ten days before the incident when the deceased had slapped her in public. He has, further, submitted that it was clear from the record that the entire family had been roped in for the murder as three of the accused Nos. 1, 4-7 were the brothers of Vellathai, Accused No. 5 was the sister's husband of Vellathai, accused No. 6 was son of accused No. 5 and accused No. 8 was son of accused No. 1 and as there was admittedly very serious enmity between the parties on account of several factors including an earlier murder, the possibility of false implication could not be ruled out.

The learned counsel for the State, Mr. S. Thananjayan has, however, pointed out that the evidence of the three prosecution witnesses referred to above had attributed a specific role to Vellathai and as she was the person who had been insulted by the deceased ten days earlier she was the prime mover in the incident.

We have considered the arguments put forth by the learned counsel for the parties.

As per the prosecution story, the slapping incident happened about ten days prior to the present incident. It

is the case of the prosecution that the deceased and P.Ws. 1,2 and 3 were way laid by the accused in the field of one Shanmuga Thevar and the deceased had been thereafter done to death in a brutal manner. We are somewhat unable to accept this story in the light of the fact that the murder was obviously pre-planned and Vellathai, a lady and a sister of three of the accused would have been a part of the group that was to commit the murder. It is also clear from the record that the animosity between the parties had existed since long and several instances including one of murder had taken place inter se them over the years. We also see that Vellathai's entire family has been roped in and in the light of the facts given above there is a possibility that she too had been roped in.

As far as Murugan is concerned, even the learned State counsel has not been able to point out any active role to him. We, therefore, feel that this is a case where the benefit of doubt should be given to both the appellants.

In the light of the above, we allow the appeal, set aside the order of the High Court and order the acquittal of the appellants.

.....J
[HARJIT SINGH BEDI]

.....J
[R.M. LODHA]

NEW DELHI

OCTOBER 07, 2009.



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We have heard the learned counsel for the parties.

Vide our separate reasoned order, we have allowed the appeal and set aside the order of the High Court and order acquittal of both the appellants.

It is stated by Mr. M. Gireesh Kumar, the learned counsel for the appellants that the appellant is in jail. We direct that the both the appellants shall be set at liberty forthwith if not required in connection with any other case.

The reasoned order to follow.

.....J
[HARJIT SINGH BEDI]

.....J

[R.M. LODHA]

NEW DELHI
OCTOBER 07, 2009.

