

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

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 1132 OF 2004

PALANI & ANR.

Appellant (s)

VERSUS

STATE OF TAMIL NADU

Respondent(s)

(With office report)

Date: 21/07/2005 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mrs. Anjani Aiyagari,Adv.

For Respondent(s) Mr. Subramonium Prasad,Adv.

Mr. Abhay Kumar, Adv.

Mr. Gopal Krishan, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The appeal is allowed, convictions and sentences of the two appellants as well as Thavaraj Pandian are set aside and they are acquitted of all the charges. They are directed to be released forthwith, if not required in connection with any other case.

[Charanjeet Kaur]

[Om Prakash]

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1132 OF 2004

Palani & Anr.

.. Appellant(s)

Versus

State of Tamil Nadu

.. Respondent(s)

O R D E R

Heard learned counsel for the parties.

Both the appellants along with other two accused persons were tried and by judgment

rendered by trial Court, accused No. 1-Thavaraj Pandian, accused No. 3-Raja (appellant No.2)

and accused No. 4-Packianathan were convicted under Section 120(B) of the Indian Penal

Code [for short IPC] and sentenced to undergo imprisonment for life. They were further

convicted under Section 302 read with Section 34 IPC and sentenced to undergo imprisonment

for life. Accused Nos. 1 and 3 were also convicted under section 394 IPC and sentenced to

undergo rigorous imprisonment for ten years. Accused No. 4-Packianathan was not found

guilty under Section 394 IPC and he was acquitted of the said charge. Accused No. 2-Palani

(appellant No. 1) was convicted under Sections 120(B) and 302 IPC and sentenced to undergo

imprisonment for life on each count. He was further convicted under Section 394 IPC and

sentenced to undergo rigorous imprisonment for ten years. All the sentences were,

however, ordered to run concurrently.

Upon appeal being preferred by the accused persons,

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convictions and sentences of accused Packianathan have been set aside and he has been

acquitted of the charges whereas convictions of other three accused persons have been upheld.

So far as accused Thavaraj Pandian is concerned, he did not move this Court. The present

appeal by special leave has been filed by the two appellants, namely, Palani and Raja.

In the present appeal, there is no direct evidence. But it is a case of circumstantial

evidence and the only circumstance alleged against the accused persons is that upon disclosure

statement made by them, a golden chain, bangle and knife were recovered from their

possession. The chain and bangle are said to have been identified in the test identification

parade by P.W. 2- Ganesan. So far as knife is concerned, there is nothing to show that the

same contained any blood stain. Witnesses, in whose presence these articles are said to have

been recovered, upon disclosure statements made by the accused persons, have not supported

the factum of recovery. In the facts and circumstances of the case, we are of the view that the

prosecution has failed to prove the recovery by credible evidence. In any view of the matter ,
there is no other circumstance to connect the appellants or any other accused either with the

charge of murder or robbery or conspiracy. This being the position, in our view the present

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case is a case of no evidence against any of the accused persons much less the appellants, as

such they are entitled to be given benefit of doubt and acquitted of all the charges.

As in our view, all the accused persons are entitled to acquittal on the ground that

there is no evidence, whatsoever, against any one of them, accused- Thavaraj Pandian whose convictions have been upheld by the High Court though did not prefer any appeal before this

Court is also entitled to acquittal as his case also stands on the same footing. It is well settled

that while examining the veracity of prosecution case in relation to those accused persons who

have preferred appeal, if this Court comes to the conclusion that either it is a case of no

evidence or the evidence adduced is not credible to convict the appealing as well as non-

appealing accused persons, the conviction of even those accused persons who did not prefer

any appeal is also liable to be set aside.

For the foregoing reasons, we allow the appeal, set aside the convictions and sentences

of the two appellants as well as accused Thavaraj Pandian and acquit all of them of the

charges. They are directed to be released forthwith, if not required in connection with any

other case.

.....J[B.N. AGRAWAL]

.....J [A.K. MATHUR]

NEW DELHI,

JULY 21, 2005