

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 481 OF 2006

STATE OF KERALA ... APPELLANT

VERSUS

SATHEESAN ... RESPONDENT

ORDER

This appeal by special leave arises out of judgment and order passed by the High Court of Kerala in Criminal Appeal No. 586 of 2002 whereby the High Court has allowed the appeal preferred by the respondent herein, set aside the order of conviction and sentence passed by the trial Court and acquitted him from the charge under Section 302, IPC.

2. The brief facts of the case as per the prosecution case are that on 29<sup>th</sup> June, 1998 while the deceased Pushparajan was brushing teeth near a canal, the accused—respondent appeared from behind and inflicted stab injuries on the back of the victim resulting his death. The accused was arrested on 9<sup>th</sup> July, 1998, from his relative's place and after the investigation charges were framed under Section 302, IPC. The accused pleaded not guilty and claimed trial.

3. In the course of trial, as many as 14 witnesses were examined by the prosecution side and three on behalf of the defence. Going by the prosecution case and relying on the evidence

of PW1—complainant, PW2 (wife of the deceased) and PW3 (daughter of the deceased), learned Addl. Sessions Judge found the accused guilty of the offence under Section 302, IPC and punished him to suffer imprisonment for life.

4. The aggrieved accused approached High Court assailing the judgment and order of conviction passed by the trial Court. The division Bench of the High Court formed the opinion that the evidence of PW1 does not repose confidence as he was also a witness in another case against the same accused. Also citing disparities in the evidences of PWs 1, 2 and 3 and their statements are unbelievable, the High Court found no reason to sustain the order of conviction and sentence passed by the trial Court and accordingly allowed the appeal of the accused acquitting him from the charge. Against the acquittal order passed by the High Court, the State of Kerala has filed the present appeal.

5. Learned counsel for the State submitted that the deceased and accused had strained relationship due to certain issues relating to their common pathway. On the previous night of the incident, the accused quarreled with the deceased and passed threatening comments. Therefore with premeditated intention, the accused inflicted stab injury on the backside of neck of the deceased. Learned counsel urged that the High Court was wrong in setting aside the conviction and sentence passed by the trial Court by a reasoned judgment.

6. On behalf of the respondent-accused, it is submitted that a false case was foisted by the police against the respondent at the behest of PW 1 due to his enmity with the accused. On 7.7.1998 police picked the respondent from the house of his wife's sister where the respondent's wife was looking after her sister after a Caesarean and the respondent was helping them in running their hotel business. From 7.7.98 police kept the respondent in unlawful custody for two days and then produced before Magistrate. Learned counsel further submitted that the entire prosecution case is a framed work concocted by the prosecution witnesses with the help of police.

7. Upon hearing learned counsel for either side, we have considered the evidence adduced by prosecution as well as defence witnesses. Admittedly, there were strained relations between the deceased and accused and also between PW1 and the accused. The record shows that PW 1 (informant) was also witness against the accused and his wife in some other cases. PW1 nowhere categorically said that he had actually witnessed the recovery of weapon by the police at the instance of accused. We find the evidences of prosecution witnesses 1, 2 and 3 are quite conflicting with each other. PW1 stated in the FIR (Ext. P1) that he had witnessed the incident from a distance of 15 feet while answering to nature's call. But, before the Trial Court he deposed that he watched the incident while attending nature's call in his compound, which as per site plan (Ext. P1(a)) is situated at about 150 meters away from the spot of occurrence. Since the difference between 15 feet and

150 meters is not ignorable, it is difficult to authenticate his presence relying on his statement. According to PW1, the accused had stabbed the deceased twice on the chest, but the report (Ext.P7) does not disclose any injury on the chest of the deceased. Considering the fact that PW1 had also been a witness in some other criminal case against the same accused, his testimony in the present case with conflicting versions would be highly doubtful. There were discrepancies between the versions of prosecution witnesses on the place of occurrence, mode of assault and recovery of weapon. Prosecution has not succeeded in proving the injury on the palm of the assailant was actually caused while attacking the deceased.

8. Going by the material on record, in our opinion, the evidences of prosecution witnesses are not trustworthy so as to convict the accused-respondent for the offence under Section 302, IPC. In our view, the High Court has properly and carefully evaluated the statements of prosecution witnesses and came to the just conclusion. Thus, we find no merit in this appeal to interfere with the impugned order and resultantly the appeal stands dismissed.

.....J.  
[N.V. RAMANA]

.....J.  
[PRAFULLA C. PANT]

New Delhi,  
February 28, 2017

ITEM NO.104

COURT NO.10

SECTION IIB

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). 481/2006

STATE OF KERALA

Appellant(s)

VERSUS

SATHEESAN  
(with office report)

Respondent(s)

Date : 28/02/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA  
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Mr. G.Prakash, Adv.  
Mr. Jishnu M.L., Adv.  
Ms. Priyanka Prakash, Adv.  
Ms. Beena Prakash, Adv.  
Mr. Manu Srinath, Adv.  
Mr. Vijaya Mohan V., Adv.  
Mr. M. T. George, Adv.

For Respondent(s) Mr. P. K. Manohar, Adv.

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

The appeal is dismissed in terms of the signed order.

(Shashi Sareen)  
AR-cum-PS

(S.S.R.Krishna)  
Assistant Registrar

(Signed order is placed on the file)