

(PART HEARD)

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). 627 OF 2005

SAYED JALALUDDIN

Appellant (s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With appln.(s) for permission to file addl. documents and with office report)

WITH

CRIMINAL APPEAL NOS. 1015-1018/2005

(with office report)

CRIMINAL APPEAL NO. 1019/2005

(with appln.(s) for exemption from filing C/C of the impugned judgment and with office report)

CRIMINAL APPEAL NOS. 1020-1023/2005

(With office report)

CRIMINAL APPEAL NO. 556/2005

(With office report)

Date: 22/11/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Appellant(s)

CrI.A.627/2005 & Mr. Arvind V. Savant, Sr. Adv.

CrI.A.556/2005 Mr. Sanjay V. Kharde, Adv.

CrI.A.1019/2005 Ms. Chandan Ramamurthi, Adv.

CrI.A. 1015-1018/2005 Mr. Vijay D. Sapkal, Adv.

CrI.A. 1019/2005 Dr. Kailash Chand, Adv.

CrI.A. 1020-1023/2005 Mr. Ravindra Keshavrao Adsure, Adv.

For Respondent(s)

CrI.A. 627/2005, Mr. Ravindra Keshavrao Adsure, Adv.

CrI. A. 1015-1018/2005,

CrI.A. 1019/2005 &

CrI.A. 556/2005

CrI.A. 1023/2005 Mr.Vijay D. Sapkal, Adv.

(for R.No. 1) Dr. Kailash Chand, Adv.

CrI.A. 1015-1018/2005 Mr. Arvind V. Savant, Sr. Adv.

(for R. Nos. 1 & 5) & Mr. Sanjay V. Kharde, Adv.

CrI.A. 1020-1023/2005 Ms. Chandan Ramamurthi, Adv.

(for R.Nos. 3 & 4)

CrI.A. 1015-1018/2005 Mr. Sudhanshu Choudhari, Adv.

(for R.Nos. 5,6,7 & 8) Mr. Naresh Kumar, Adv.

CrI.A. 627/2005 Dr. Kailash Chand, Adv.

(for complainant)

UPON hearing counsel the Court made the following

O R D E R

Heard the parties.

The Appeals are dismissed in terms of the signed order.

(Rajesh Dham)

Court Master

(Khushi Ram)

Court Master

(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 627 OF 2005

SAYED JALALUDDIN

Appellant (s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

WITH

CRIMINAL APPEAL NOS. 1015-1018/2005

CRIMINAL APPEAL NO. 1019/2005

CRIMINAL APPEAL NOS. 1020-1023/2005

CRIMINAL APPEAL NO. 556/2005

O R D E R

Heard the parties.

The appellants, Sayed Jalaluddin and Syed Mobinuddin, along

with six other accused persons, were tried and, while the other six accused

persons were acquitted by the trial court, the appellants were convicted

under Section 304 Part II read with Section 34 of the Indian Penal Code

(hereinafter referred to as "IPC") and sentenced to undergo rigorous

imprisonment for a period of seven years and to pay fine of Rs. 2,000/-

each and in default to undergo simple imprisonment for a period of six

months. They were further convicted under Section 307 read with Section

34 IPC and sentenced to undergo rigorous imprisonment for a period of

five years and to pay fine of Rs. 2,000/- and in default to undergo simple

imprisonment for a period of six months. These two accused persons

(Sayed Jalaluddin and Syed Mobinuddin) were also convicted under

Section 452 read with Section 34 IPC and sentenced to undergo rigorous

imprisonment for a period of two years and to pay fine of Rs. 1,000/- each

and in default to undergo rigorous imprisonment for a period of three

months. All the sentences, however, were ordered to run concurrently.

Against the order of acquittal the State filed appeal and the complainant

filed a revision, whereas the aforesaid two accused persons preferred

separate appeals before the High Court. By the impugned order, the High

Court has set aside the conviction of Sayed Jalaluddin under Section 307

read with Section 34 IPC, but so far as his conviction under Section 304

Part II is concerned, the same has been converted into one under Section

302 IPC and he has been sentenced to undergo imprisonment for life and

to pay fine of Rs. 5,000/- and in default to undergo rigorous imprisonment

for a period of six months. So far as accused-Syed Mobinuddin is

concerned, the High Court has set aside his conviction under Section 304

Part II but confirmed the conviction under Section 307 read with Section

34 IPC. So far as the conviction of these two appellants under Section

452 read with Section 34 IPC is concerned, the same has been confirmed.

Hence, these Appeals.

Criminal Appeal No. 627/2005 and Criminal Appeal No. 556/2005

have been filed by accused-Sayed Jalaluddin, whereas Criminal Appeal No.

1019/2005 has been filed by accused-Syed Mobinuddin, Criminal Appeal

Nos. 1015-1018/2005 have been filed by the father of the deceased and

Criminal Appeal Nos. 1020-1023/2005 have been filed by the State of

Maharashtra.

The prosecution case is supported by the evidence of three eye

witnesses, namely, Mohammad Ishak (PW 1), Mohd. Naim Mohd. Ibrahim

(PW 5) and Jahiroddin Nayyar (PW 12) and, out of them, PWs 1 and 5 were

injured witnesses. We have been taken through the evidence of these

witnesses. In our view, they have consistently supported the prosecution

case and their evidence is corroborated by the medical evidence. In our

view, the High Court was quite justified in upholding conviction of the

appellants-Sayed Jalaluddin and Syed Mobinuddin. So far as appeals

against acquittal are concerned, in our view, neither the judgment of the

acquittal rendered by the trial court nor the same passed by the High Court can be said to be perverse in any manner, as such, we do not find any ground to interfere with the same.

The Appeals, accordingly, fail and the same are dismissed.

.....J.

(B.N. AGRAWAL)

.....J.

(P.P. NAOLEKAR)

NEW DELHI;

NOVEMBER 22, 2006.