

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1546 OF 2010

STATE OF KERALA

APPELLANT(S)

VERSUS

SIBI THOMAS & ORS.

RESPONDENT(S)

J U D G M E N T

KURIAN JOSEPH, J.

The State has come in appeal against the impugned judgment dated 03.07.2007 in CrI. Appeal No.1920 of 2004. By the impugned judgment, the High Court has confirmed the findings of acquittal rendered by the Additional Sessions Court, Kottayam in Sessions Case No.89 of 2003.

We have heard at length learned counsel appearing for the State and Ms. Vanshaja Shukla, learned Amicus Curiae. We have also gone through the records.

The entire case of the prosecution is built up on the testimony of PW-9 and PW-11. However, both Trial Court as well as the High Court were not inclined to place reliance on their evidence, mainly for the reasons that the FIR was registered after four days of the incident, and that a counter case had been registered on

the basis of the the statement given by the accused prior to the registration of the FIR lodged on the basis of the complaint given by PW-9.

Both the Sessions Court and the High Court are also of the view that it was difficult to believe the version of PW-9 as to the cause of injury on the deceased. True PW-9 is an injured witness. But going by the sequence of events which took place, both the courts concluded that the PW-9 could not have seen the alleged throw of stone on the head of the deceased. PW-11, daughter of the deceased and real sister of PW-9 was also found by both the courts to be not reliable. Even her presence was doubted. Though CW-2 and CW-3, other daughters of the deceased were also ocular witnesses, they have not been examined. One independent eye-witness, PW-12 turned hostile.

We have also gone through the records. We are not persuaded to take a different view from that is taken by the Trial Court and confirmed by the High Court.

This criminal appeal is accordingly dismissed.

.....,J
[KURIAN JOSEPH]

.....,J
[R.K. AGRAWAL]

New Delhi;
August 25, 2015

ITEM NO.104

COURT NO.12

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. 1546/2010

STATE OF KERALA

Appellant(s)

VERSUS

SIBI THOMAS & ORS.

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Date : 25/08/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Appellant(s)

Ms. Liz Mathew, AOR
Mr. M.F. Philip, Adv.

For Respondent(s)

Vanshaja Shukla(A.C.), Adv.

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

The criminal appeal is dismissed in terms of the
signed non-reportable judgment.

(Ashok Raj Singh)
Court Master

(Tapan Kumar Chakraborty)
Court Master

(Signed non-reportable judgment is placed in the file)