

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). 2223 OF 2009

MUTHUKUMAR @ MUTHUKUMARAN Appellant (s)

VERSUS

STATE TR. INSP. OF POLICE Respondent(s)

(With appln(s) for exemption from filing O.T.

Date: 16/03/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. R. Balasubramanian, Sr. Adv.  
Mr. R. Shivakumar, Adv.  
Mr. B. Karunakarna, Adv.  
Ms. Malini Poduval, Adv.

For Respondent(s) Mr. S. Thananjayan, Adv.

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

The appeal is allowed in terms of the signed order.

(Deepak Joshi) (Indu Satija)  
Sr. P. A. Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2223 OF 2009

MUTHUKUMAR @ MUTHUKUMARAN .....Appellant (s)

Versus

STATE TR. ISNP. OF POLICE .....Respondent (s)

O R D E R

This appeal has been filed against the impugned judgment dated 05/08/2009 & 07.08.2009 in Criminal Appeal No. 336 of 2006 passed by the High Court of Madras.

The facts of the case have been set out in the judgment of the High Court and hence we are not repeating the same here except where necessary. The appellant was acquitted by the trial court, but that judgment has been reversed by the High Court.

This is a case of circumstantial evidence and we are of the opinion that the prosecution has not been able to establish its case beyond reasonable doubt connecting the chain of circumstances linking the accused with the crime.

The prosecution has relied on certain recoveries. In our opinion it is not safe to convict on this basis, as it is well known that the police in India often plant some material and then show it as recoveries.

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The other evidence relied on by the High Court is the evidence of PW 5 who said he saw the accused entering and leaving the house of the deceased at 8.30 p.m. the day before his body was discovered.

This again cannot be the basis of holding the appellant guilty. It cannot be said on this evidence that the accused alone could have committed the crime. Hence the benefit of doubt has to go to the accused.

On the facts of the case, we are of the opinion that the appellant is entitled to be acquitted.

The Appeal is allowed, impugned judgment of the High Court is set aside.

.....J.  
[MARKANDEY KATJU]

.....J.  
[GYAN SUDHA MISRA]

NEW DELHI;  
MARCH 16, 2011