

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 655 OF 2002

Inspector of Police, Tamil Nadu

.... Appellant

Versus

Muthusamy & Anr.

.... Respondents

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

Heard.

Challenge in this appeal is to the judgment of acquittal recorded by a Division Bench of the Madras High Court. The accused persons are the father and brother respectively of the deceased. The incident purportedly took place on 3.1.1990. Though the prosecution relied on the evidence of many persons who supposedly witnessed the occurrence, while deposing in Court, most of them resiled from the statements made during investigation. The version projected by the prosecution was that the deceased was throttled and also poison was administered to him. But the report of the Forensic Science Laboratory stated that the viscera did not contain any poison. The prosecution, therefore, gave up its stand that the deceased was administered poison by the accused persons. There were purportedly some extra-judicial confessions on which the Trial Court relied. Accordingly, the accused persons were convicted for offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC'). In appeal the

High Court has, by the impugned judgment, directed acquittal.

Learned counsel for the appellant-State submitted that the analysis made by the High Court to direct acquittal cannot be maintained as the High Court lost sight of several relevant factors.

We find that the High Court has referred to the extra-judicial confessions and found that they are not reliable. The witnesses gave varying version about the manner in the so-called extra-judicial confessions. Apart from that the persons who claimed to have witnessed the incident resiled from the statements made during investigation and there was practically no evidence to implicate the accused persons. To add to other factors, one more significant factor which the High Court has noticed is that there was manipulation done to show as if the Magistrate had received the report from Police Station on 3.1.1990. In reality the date of seal found on Exh. P1 and Exh. P9 of the Court of Keeranoor shows that the date was 5.1.1990. In view of these discrepancies, we are of the opinion that the High Court's judgment does not suffer from any infirmity to warrant any interference. The appeal fails and is accordingly dismissed.

(Dr. ARIJIT PASAYAT)

.....J.

(HARJIT SINGH BEDI)

.....J.

**New Delhi
September 10, 2008**