

SUPREME COURT OF INDIA

Subbaiah Ambalam

Vs.

State of T.N.

Crl.A.No.49 of 1976

(H. R. Khanna and A. C. Gupta, JJ.)

12.02.1976

ORDER

1. This is an appeal by special leave by Subbaiah Ambalam against the judgment of the Madras High Court confirming on appeal and reference the conviction of the appellant under Section 302, I. P. C. and the sentence of death.

2. We have heard the learned counsel for the parties and are of the opinion that this is a fit case in which the matter should be remanded to the High Court for re-hearing of the appeal and reference. The judgment of the High Court appealed against covers less than a page. There is no discussion of the evidence adduced in the case and the learned Judges have disposed of the evidence by two sentences which read as under :

"They swore that they saw the occurrence themselves. The learned Sessions Judge has accepted their evidence and on a careful perusal of their evidence, we agree with him."

3. It is well settled that in a Reference under S. 374 of the Code of Criminal Procedure for confirming death sentence, the High Court has to consider the evidence afresh and to arrive at its independent finding with regard to the guilt of the accused. We are distressed to find that in the judgment appealed against this salutary requirement has not been complied with and a case involving death sentence has been disposed of in a casual manner. We therefore, accept the appeal, set aside the judgment of the High Court and remand the case to the High Court for disposal in accordance with law.

Case remanded.