

# SUPREME COURT OF INDIA

Manickam

Vs.

State By Public Prosecutor

Crl.A.No.517 of 2007

(P.P.Naolekar and P.Sathasivam,JJ.)

13.02.2008

## ORDER

1. Appellant Manickam along with two other accused Palani and Oomaiyan @ Mani was tried for the offences under Sections 449/324/302/109 of Indian Penal Code ( in short IPC) on the allegation that on 26.12.1993 at about 8.00 a.m. in Vizhududaiyan Village, appellant along with accused Palani and Oomaiyan trespassed into the house of Anbalagan, caused simple injuries on the person of Alamelu (PW 4) and Anjalai (PW 5) and committed the murder of Anbalagan.

2. The Sessions Judge, Tiruchirappalli, by his judgment dated 8.10.1996 acquitted the appellant and the other accused persons. Challenging the said judgment of the Sessions Judge, the State filed an appeal before the High Court. The High Court by its impugned judgment dated 21.7.2006 acquitted accused Palani and Oomaiyan but set aside the judgment in respect of appellant-accused and held him guilty under Section 304 (Part-II) IPC and sentenced him to undergo R.I. for 5 years.

3. Aggrieved by the impugned judgment of the High Court, the appellant has preferred the present appeal by special leave.

4. We have heard learned senior counsel for the parties and have perused the evidence on record. PW 4 Alamelu, the wife of Anbalagan (since deceased) and PW 5 Anjalai, who also sustained injuries in the incident, have supported the prosecution case coupled with the statement of appellant-accused recorded under Section 313 Cr.P.C. On consideration of the aforesaid evidence, we do not find any infirmity in the impugned judgment of the High Court. However, considering the facts that the appellant-accused is an old person aged about 77 years, the incident is of the year 1993, the appellant-accused was convicted for exceeding the right of private defence and he has already undergone sentence for more than 1= years, the ends of justice will be served if he is sentenced to the period already undergone by him. We order accordingly. The appellant-accused be set at liberty if he is not required in any other case.

4. The appeal stands disposed of accordingly.