

Subbiah Thevar vs State Of Tamil Nadu on 10 January, 1973

Equivalent citations: AIR1973SC785, 1973CRILJ563, (1973)3SCC480, 1973(5)UJ613(SC), AIR 1973 SUPREME COURT 785, 1973 3 SCC 480, 1973 MADLJ(CRI) 372, 1973 2 SCJ 147, 1973 SCC(CRI) 380

Bench: A.K. Mukherjea, A.N. Grover, K.K. Mathew

JUDGMENT

Mathew, J.

1. In this case, on the application for special leave to appeal filed by four petitioners, we issued notice to the State of Tamil Nadu on the question of the propriety of sentence of death imposed upon the appellant petitioner and dismissed the application of the other petitioners.

2. In pursuance to the notice the State has entered appearance. After hearing counsel on both sides, we granted special leave limited to the question of sentence and heard the appeal itself and passed an order on December 22, 1972 reducing the sentence to imprisonment for life for reasons to be given later.

3. The prosecution case was as follows. P.W. 1 was running a grocery shop. Accused No. 1 and his wife Lakshmi used to purchase provisions from the shop. About a month prior to the date of the occurrence, PW 1 went to the house of Accused No. 1 in his absence for getting an amount of Rs. 2/- due to PW 1 on account of the purchase of grains from the shop. This conduct of P.W. 1 in having visited his house in his absence aroused the suspicion of Accused No. 1. P.W. 1 apprehended an attack from Accused No. 1 for this reason and so he left the village for the time being. During his absence from the village, a meeting of the village panchayat was held to judge the propriety of his conduct in having visited the house of Accused No. 1 in his absence. P.W. 1 was found guilty and a fine of Rs. 30/- was imposed on P.W. 1 and that was paid on behalf of P.W. 1. On April 26, 1970, the day prior to the date of occurrence, Accused No. 1 came to the shop of P.W. 1 at about 3 P.M. and beat him with a chappal for visiting his house in his absence. On April 27, 1970, at about 8.30 A.M. the deceased Lakshmi Ammal, mother of PW.1, PW.2, PW.3 and one Alagiriswami Pillai went to the house of Accused No. 1 to ask him why he beat P.W. 1 with a chappal on the previous day inspite of the fact that a fine of Rs. 30/- was imposed on P.W. 1. Then Accused No. 1 came out of the house with an aruval: but the aruval was caught hold of by Alagiriswami Pillai. The deceased then beat Accused No. 1 with a broom stick. This was considered to be a great humiliation not only by Accused No. 1 but also by all neighbouring members of the Marva (Thevar) community to which Accused No. 1 belongs. On the same day at about 1 P.M. the deceased was sitting in front of the shop of P.W. 1 which was situated very near to the house of Accused No. 1. Then Subhammal, wife of Accused No. 6 and Alagammal, wife of Accused No. 3 came in front of the house of Accused No. 1 and said that

since a Vellala woman (deceased) beat a Maravaman (Accused No. 4) with a broomstick, Vellala women should be molested. On hearing this, Accused No. 4 said that the Vellala women need not be molested, but, on the other hand, Vellala men who came in the morning to the house of Accused No. 4 should be properly dealt with. On hearing the utterance of Accused No. 4, Lakshmi Ammal, the deceased, said that P.W. 1 was beaten with a chappal and made some sarcastic remark indicating that Thevars (Harvas) are not very special people. On hearing this, Accused No. 7, who was standing in front of the house of Accused No. 1 said:

Come (follows). We will find out whether the Thevar's flag flies or the flag of Vellalas.

This was a retort to the sarcastic remark of the deceased and a challenge. Thereafter, Accused No. 1 to 7 proceeded towards the house of P.W. 1 from the house of Accused No. 1. Accused No. 1 was armed with an aruval. Accused No. 2 and Accused No. 3 were armed with a vel stick. On seeing accused No. 1 to 7 advancing towards the shop. P.W. 1 threw Soda bottles to scare them away. The accused came in front of the shop, and the cheed Nith cut the deceased, who was sitting in front of the shop, on the head with the aruval. Thereafter, Accused No. 2 and Accused No. 3 stabbed the deceased with a vel stick. Lakshmi Ammal died on the spot instantaneously.

4. The trial Court disbelieved the prosecution case that all the accused formed themselves into an unlawful assembly with the common object of causing the death of the deceased but found, on the basis of the evidence of P.W. 1, P.W. 2 and P.W. 5 that the injury on the head of the deceased inflicted by Accused No. 1 caused her death and that he was guilty of an offence under Section 302 of the I.P.C. and sentenced him to death. The Court further found that Accused No. 2 to 4 were guilty of various offences under the I.P.C. and sentenced them with imprisonment of various descriptions. And as there was no evidence against Accused No. 5 to 7, they were acquitted.

5. The High Court confirmed the convictions and sentences.

6. We think that on the evidence it is clear that all the accused who were Thavars felt humiliated by reason of the fact that a woman belonging to the Vellala community beat Accused No. 1 with a broom stick. The deceased indulged in a sarcastic expression indicating that the community to which the accused belong is not a special one implying that beating a member of the community with a broom stick need not be considered as great insult. The altercation between the accused and the deceased would show that the accused were smarting under the feeling that their community itself was humiliated by one of its members being beaten with broom stick and that the attack was prompted by that feeling and the insolent attitude of the deceased towards their community. In these circumstances we feel that the extreme penalty of death was not called for and that the lesser sentence of imprisonment for life would meet the ends of justice.

7. We, therefore, set aside the sentence of death imposed upon Accused No. 1 (Appellant) and impose on him the sentence of imprisonment for life. The appeal is allowed to this extent and is dismissed in all other respects.