

ITEM NO.10

Court No.7

SECTION IIA

**S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S**

**Petition(s) for Special Leave to Appeal (Crl) No(s).7359/2008**

**(From the judgement and order dated 14/03/2008 in CRLA No. 428/2001 of The HIGH COURT OF MADRAS)**

**MURUGAN**

**Petitioner(s)**

**VERSUS**

**STATE OF T.NADU TR.INSP.OF POLICE**

**Respondent(s)**

**WITH SLP(Crl) NO. 9446 of 2008**

**(With appln(s) for c/delay in filing SLP,exemption from filing O.T.,bail and office report )**

**Date: 02/03/2009 This Petition was called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE ALTAMAS KABIR  
HON'BLE MR. JUSTICE CYRIAC JOSEPH**

**For Petitioner(s)**

**Ms. E.R. Sumathy,Adv.**

**Mr. Kanakraj,Sr.Adv.**

**Mr. M. Vijaya Bhaskar,Adv.**

**For Respondent(s)**

**Mr. S. Thananjayan,Adv.**

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

**Leave granted. The appeals are partly allowed in terms of the signed order.**

**(Ganga Thakur)  
P.S. to Registrar**

**(Juginder Kaur)  
Court Master**

**Signed order is placed on the file.**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. 413 OF 2009**  
**(Arising out of SLP(Crl.) No.7359/08)**

**MURUGAN**

**...APPELLANT(S)**

**Versus**

**STATE OF T. NADU TH. INSPECTOR OF POLICE**

**.RESPONDENT (S)**

**With Crl. Appeal No.414/09**  
**(Arising out of SLP(Crl.) No. 9446/08)**

**ORDER**

Leave granted in both the Special Leave Petitions which are taken up together for disposal since they arise out of a common judgment of the High Court.

On 18<sup>th</sup> July, 1998, at 12.00 noon, while one Sarika Shah and Kavita (PW-2), were proceeding on the road followed by some of the prosecution witnesses, the appellant along with the other accused came in an auto rickshaw and began teasing the said two girls. From the evidence, it transpires that one of the persons in the auto rickshaw poured water over the two girls and he also jumped at Sarika Shah with the intention of outraging her modesty. As a consequence she fell down

and sustained head injuries which ultimately resulted in her death. All the accused persons were tried and convicted under Section 304 Part II read with Section 34 IPC and were sentenced to five years rigorous imprisonment and fine. These two appeals have been filed by C. Sridhar and Murugan, who were the accused Nos. 6 and 9.

When notice was issued in these appeals on 18<sup>th</sup> December, 2008, we had directed that notice would be confined only to the quantum of sentence as far as the two appellants are concerned.

Having heard learned counsel for the respective parties and after perusing the evidence adduced during the trial, it is evident that it was the accused No.1, Hari, who played the main role or active role in teasing the two girls which ultimately resulted in the death of Sarika Shah and all the others were inside the auto rickshaw when the incident took place and did not participate therein. Having regard to the above, we think it will meet the ends of justice if we reduce the sentence imposed on these two appellants to two years rigorous imprisonment while maintaining the fine.

The appeals are partly allowed and the judgment of the Trial Court dated 26<sup>th</sup> April, 2001, is modified to the aforesaid extent.

.....J.  
( ALTAMAS KABIR )

.....J.  
( CYRIAC JOSEPH )

New Delhi,  
March 02,2009.

