

Present : Sirimane, J., Ismail, J. and Ratwatte, J.

P. MAHALINGAM and two others *vs.* THE REPUBLIC OF
SRI LANKA

S. C. 95-97/74 H. C. Jaffna 40/74—M. C. Mallakam 16279

Jury—Panel Tamil speaking—Charge by trial Judge in English—Charge not interpreted into Tamil—Re-trial ordered.

Where the Accused-Appellant had elected to be tried by a Tamil speaking Jury but the charge to the Jury was in English and was not interpreted into Tamil—

Held : Once an accused elects to be tried by a Tamil speaking Jury, it is essential that all proceedings at the trial should be in the language of the panel, namely Tamil. If there are any proceedings in any other language, then those proceedings should be interpreted into Tamil.

Appeal against conviction at a trial before the High Court, Jaffna.

V. S. A. Pullenayagam, with C. Motilal Nehru, K. Kanag-Iswaram, S. Mahenthiran and T. Edward Chandran, for the accused-appellants.

Ranjith Gunatilleke, Senior State Counsel for the Attorney-General.

May 8, 1975. SIRIMANE, J.

The three appellants in this case were indicted with committing murder and on their being found guilty by a 5 : 2 verdict of the Jury were sentenced to death.

Learned counsel for the appellants complains that the appellants had elected to be tried by a Tamil Speaking Jury. He submits that though the proceedings were in Tamil, the charge to the Jury was in English and was not interpreted into Tamil.

Once an accused elects to be tried by a Tamil speaking Jury, it is essential that all proceedings had at that trial should be in the language of the panel—namely—Tamil.

If there are any proceedings in any other language then those proceedings should be interpreted into Tamil. Learned counsel for the State concedes that the charge in this case has not been interpreted into Tamil. He therefore, does not oppose the submissions made by learned counsel for the appellants.

In these circumstances, we are of the view that material prejudice would have been caused to the appellants by all the proceedings not being interpreted into the language of the panel.

We therefore quash the convictions and sentences and send the case back for a re-trial.

ISMAIL, J.—I agree.

RATWATTE, J.—I agree.

Case sent back for re-trial.