

# Widow, 2 men acquitted in ‘body never found’ murder trial

Federal Court bench says their convictions are unsafe as the appellants were prejudiced.

[V Anbalagan](#) - 26 Oct 2023, 3:06pm



PUTRAJAYA: A widow and two men were acquitted of murder after the Federal Court ruled that they were denied a fair trial.

“After going through the appeal records and hearing submissions by parties, we are satisfied that the entire trial was not conducted in accordance with the law.

“The judgments of the High Court and the Court of Appeal are set aside, and the accused are acquitted,” said Chief Justice Tengku Maimun Tuan Mat.

The top judge was chairing a three-member bench, which included Chief Judge of Malaya Zabidin Diah and Justice Abu Bakar Jais.

Tengku Maimun said the prejudice suffered by Siti Nor Asiah Abdul Wahad, 32, Zulhiami Md Darus, 37, and Rahmat Nazarudine, 29, at the trial rendered their convictions unsafe.

She said their primary complaint revolved around the conflicting date and time the alleged offence was said to have been committed.

The charge sheet originally claimed that Fairul Haqimmie Mokhtar was murdered between 12.30am and 1am on Aug 29, 2016.

However, at the close of the prosecution case, it was said the offence was committed at 4am on Aug 29, 2016.

In his grounds of judgment, the trial judge said the offence was committed at 4am on Aug 30, 2016.

Earlier, counsel Kitson Foong, who represented Zulhiami, said the court should have amended the charge and read it to the accused persons.

“In this case, the law was rewritten and we want this court to correct it,” he said, adding that there was a “miscarriage of justice”.

Foong said the appellants ought to have been allowed the opportunity to recall witnesses, but were unaware that the charge had been amended.

Lawyer Geethan Ram Vincent, who appeared for Siti, a widow, submitted that the conviction was not safe as the prosecution was relying purely on circumstantial evidence.

“My client was also prejudiced and not accorded a fair trial as provisions in the Criminal Procedure Code were not adhered to,” he said.

Counsel Fahri Azzat, who represented Rahmat, said the trial judge misdirected himself by imposing the burden of proof on the appellants.

He said the prejudice suffered was so grave that the conviction was unsafe and warranted appellate intervention.

Deputy public prosecutor Parveen Hameedah Natchiar, on the other hand, said the findings of the trial judge, affirmed by the Court of Appeal, were supported by overwhelming evidence.

“Any irregularity can be cured under Section 422 of the Criminal Procedure Code,” she said.

The trio were charged under Section 109 of the Penal Code read together with Section 302 of the Penal Code for murder.

In late 2019, Justice Abdul Halim Aman sentenced Siti, Zulhiami and Rahmat to death for the murder of Fairul.

He found that Zulhiami and Siti were charged with planning and abetting Fairul’s murder by Rahmat, which was carried out at an apartment in Taman Sentosa, Klang.

The motive for the crime was not revealed in court.

A prosecution witness had testified that Rahmat hit Fairul with a piece of wood, which caused the victim to collapse. He also said he heard Siti suggesting that Rahmat wrap the body in a mattress and dump it in a river in Section 24, Shah Alam.

The body was never found.