

### **Summary of Supreme Court Judgment No. 244 (October 2013)**

**Key Words:** Premeditated murder, not present at the location of the offense, minor, police report, reasonable doubt.

**Date:** Case No. 285(2012), the judgment was issued on October 9, 2013.

**Facts and Decision:** Seven convicts (one of whom was a minor, aged 15) were convicted by the Trial Court for premeditated murder (Judgment No. 48 Ch, dated May 12, 2011).

The convicts appealed the entire judgment. The Appeals Court issued Judgment No. 46 Kr II (2012) upholding the original judgment, and also Judgment No. 104 Kr II (2012). All the convicts filed an appeal (petition for Sa Tuk) against Judgment No. 104 Kr II.

**Supreme Court's View and Decision:** The defense lawyer claimed their clients did not commit the offense and that the facts contained reasonable doubt. The Supreme Court Prosecutor concluded: Accepted the appeal and requested the rejection of Criminal Judgment No. 104 Kr II, dated April 24, 2012.

**The Supreme Court held:** *It considered that there was not yet sufficient basis to determine the facts of the offense and the elements of the crime clearly for each individual accused. The Supreme Court noted that neither the Trial Court nor the Appeal Court's reasoning demonstrated established facts determining how each accused was actively involved in the offense. Therefore, the Appeal Court's judgment contained an error violating Article 419 of the Code of Criminal Procedure.*

**Decision:** ...The Supreme Court decided to send Criminal Case File No. 285 (2012) back to the Appeal Court for retrial.

**Notes:** A. Starting from the Appeal Court stage, the victim's wife withdrew her complaint, asserting that the convicts did not commit the offense against her husband (according to the lawyer). B. According to the excerpt above, determining the active participation of each accused requires reliance on established facts to determine the elements of the crime. It demands a display of the specific actions of each participant. C. From the date of the offense (2008) to 2013, a period of five years had passed. The Appeal Court will retry the case. If dissatisfied, the convicts can file a second appeal (Sa Tuk), which the Supreme Court will decide in a full panel on both the facts and the law. Thus, the convicts must wait a long time. What will their fate be? In the event they are found not to have committed the offense, which authority or person will be responsible for compensating them for damages? Stay tuned!

**Possible Question:** Under what circumstances does the Supreme Court decide to send a case file back to the Appeal Court for a new decision?

**Further Reading:** Responsibility for wrongful conviction, summary of Judgment No. 48 (2011) and Judgment No. 104 (2012).