

Kathula Somulu Mallanna and another

Vs

State of A.P.

Criminal Appeal No. 293 of 1988

(S. R. Pandian, K. Jayachandra Reddy JJ)

08.01.1991

JUDGMENT:-

1. This appeal is directed against the judgment of the Designated Court under Terrorist and Disruptive Activities (Prevention) Act (for short 'TADA'). The appellants convicted under Section 3(3) of the Act are sentenced to three years' imprisonment and also to pay a fine of Rs. 1 00/- each in default to undergo simple imprisonment for one month. The first appellant is also convicted under Section 25(1)(a) of the Indian Arms Act and sentenced to one year's imprisonment. The second appellant is convicted under Section 5 of Explosive Substances Act. All the sentences are to run concurrently. Section 3(3) of the 'TADA' lays down that whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of a terrorist act or any act preparatory to a terrorist act shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and shall be liable to fine. The submission of the learned counsel for the appellant is that even if the prosecution case is accepted in to the provisions of Section 3(3) were not attracted. It is necessary to state the necessary facts.

2. The appellants are the members of CPI (ML) Group. On 22-6-86 on reliable information the S.I. of Police, Chintur with other police personnel proceeded to Goundlakota Village and conducted raids in the forests. While they were returning to Chintur, they found some extremists proceeding towards Hillock near Gone gutta of Kalthur village. They were chased and the two appellants were apprehended, with one country-made pipegun (Tamancha) and two country-made bombs and pallets. A case was registered under the provisions of the Arms Act and Explosive Substances Act and also under Sections 3 and 4 of 'TADA'. Panchanamas were prepared for the recovery of the weapons as well as explosive substances. The prosecution examined PWs- 1 to 4. PW- 1 is the S. I. of Police and is a prosecution witness and the PW-2 is the panch-witness. The learned Designated Judge accepted the evidence and found the appellants guilty.

3. Section 2(f) defines the 'Terrorist act' and has the meaning assigned to it in subsection (1) of Section 3 of 'TADA'. The provisions of Section 3(3) which deal with the conspiracy or attempt or abatement or inciting or facilitation of the commission of a terrorist act (sic). The fact that these appellants were found in the group of other persons in the forest area and were seen running away after seeing the police and coupled with the recoveries of the explosive substances including the country-made fire-arms would lead to the inference that the appellants along with others were engaged in conspiracy or in attempt to commit or abet the 'terrorist act'. The learned counsel for the appellant could not show any infirmity in the evidence of PWs-1, 2 and 4 in respect of the chase and apprehension of the accused and the recovery of weapons as well as explosive substances. The minimum sentence has been awarded and no interference is called for. The appeal is dismissed.

Appeal dismissed.

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