

Sham Chand

Vs

State of Haryana

Criminal Appeal No. 235 of 1993

(P. N. Singh, K. Jayachandra Reddy JJ)

08.04.1993

ORDER

1. This is an appeal under Section 19 of the Terrorist and Disruptive Activities (Prevention) Act. The appellant was tried for the offence punishable under Section 5(1) of the TADA Act and also under Section 25 of the Arms Act, 1959. The Designated Court convicted him under Section 25 of the Arms Act only and sentenced him to undergo six months' RI.
2. The prosecution case is that on October 18, 1986. Hari Chand PW 2 accosted the appellant and recovered from him an unlicensed firearm. The panchnama was prepared and charge-sheet was lodged.
3. In statement under Section 313 CrPC the accused denied the offence and pleaded not guilty. In this defence he examined DW 1 was deposed that the recovery was effected at the instance of one Khazan Chand but he also admitted that appellant and three others were summoned by the police and they were required to produce the proof of their innocence and that the illicit arms did not belong to them. This defence is held to be an afterthought and the Designated Court has given ample reasons for rejecting the same.
4. The only other submission put forward before the Designated Court is that the official witnesses were all interested and the case has been foisted. There is no presumption that the evidence of the official witnesses cannot be relied upon.
5. By the Amendment Act 39 of 1985 the minimum sentence of one year is prescribed for unlawful possession of a firearm without a licence. In the instant case, as provided in the proviso, the Designated Court has given special reasons though not very satisfactory and awarded six months' RI. We see no ground to interfere. The criminal appeal is dismissed.

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