

Jagtar Singh

Vs

State of Punjab

Criminal Appeal No. 1524 of 1995

(G. N. Ray, B. L. Hansaria JJ)

19.04. 1996

JUDGMENT

HANSARIA, J. –

1. The appellant has been convicted under Section 25 of the Arms Act, 1959 read with Section 5 of Terrorist and Disruptive Activities (Prevention) Act, 1987 (for short 'TADA'). It has pained us to know that despite he having a foolproof defence, it has come to be rejected by the Designated Court on the ground that it was "an afterthought". The appellant's defence was that the 315 bore rifle, which was said to have been recovered from his possession on 25-5-1990, was to bolster up a false case against him under Section 307 IPC, and the weapon was in fact one which was licensed in the name of Avtar Singh, a partner of the appellant in a liquor business, and was taken possession of on 23-5-1990, to prove which Avtar Singh was examined as DW 1. The Designated Court, however, regarded the defence as "an afterthought" because prosecution witnesses had not been asked about the same by giving any suggestion to them in cross-examination. We are afraid the Court made an apparent error in saying so inasmuch as PW 1, SI Gurinder Singh, who deposed to the recovery of the arm from the appellant, had been specifically asked whether the rifle was licensed in the name of Avtar Singh; and PW 2, SI Karnail Singh was suggested that the rifle in question belonged to Avtar Singh and had been taken possession from him. It is a different matter that these suggestions were denied. What is more, PW 2 admitted that in the DDR (Daily Diary Report) there was no mention about the details of the case property recovered from the appellant.

2. Nothing further was required, according to us, to be asked from the prosecution witnesses and the learned Additional Judge committed gross error in rejecting the aforesaid plea on the ground that it was "an afterthought".

3. We, therefore, allow the appeal, set aside the conviction and order for the release of the appellant forthwith from jail if not needed in connection with any other case.