

Kashmira Singh

Vs

State of Punjab

Criminal Appeal No. 228 of 1997

(CJI M. M. Punchhi, K. T. Thomas, M. Srinivasan JJ)

03.02.1998

ORDER

1. The prosecution case was that on 17-7-1990 a police party comprising ASI Jangir Singh and Constable Chamkaur Singh as also a few others while patrolling the area close to Village Namol in the State of Punjab found the appellant moving in suspicious circumstances and when intercepted was found to be in possession of a country-made pistol of .12 bore along with two live cartridges - one of which was in the barrel of the weapon, those being carried unauthorisedly. On these facts, the appellant was charged for an offence under Section 25 of the Arms Act, 1959 read with Section 5 of the Terrorist and Disruptive Activities (Prevention) Act, 1987.
2. The appellant pleaded not guilty and claimed trial in the Designated Court, which took cognizance of the offence, recorded the statements of ASI Jangir Singh, PW 1 and Constable Chamkaur Singh, PW 2 who narrated the version of the prosecution on the lines aforementioned. The Designated Court having believed the version of these two witnesses convicted the appellant for the offence charged and imposed on him a sentence of rigorous imprisonment as impossible to the minimum, i.e., for five years' RI and payment of fine of Rs. 2000, in default of payment of which, further rigorous imprisonment for one year.
3. Learned counsel for the appellant has taken us through the evidence recorded by the prosecution as also the judgment under appeal. Except for the comment that the prosecution is supported by two police officials and not by any independent witness, no other comment against the prosecution is otherwise offered. This comment is not of any value since the police party was on patrolling duty and they were not required to take along independent witnesses to support a recovery if and when made. It has come in the evidence of ASI Jangir Singh that after the recovery had been effected, some people had passed by. Even so, obtaining their counter-signatures on the documents already prepared would not have lent any further credence to the prosecution version. The other comment offered by the appellant's learned counsel is that it could not be conclusively proved that the pistol was in working order. The pistol was said to be loaded with a live cartridge. That condition would presume that it was in working order. The prosecution could not produce Head Constable Jagdish Rai, Head Armourer who had tested the recovered weapon because on the date of the trial, he was dead. The report of the armourer was otherwise introduced by ASI Jangir Singh identifying signatures of Head Constable Jagdish Rai on the test report prepared. Without going into the question as to whether that was proper induction of evidence, even if we sustain the objection with regard to the workability of the pistol, the fact remains that two live cartridges were also recovered from the appellant to which no comment has been offered. Thus, from all angles, the prosecution has been able to bring home the charge against the appellant beyond reasonable doubt. Therefore, there is no scope in this appeal which is dismissed accordingly.