

Jasbir Singh

Vs

State of Punjab

Criminal Appeal No. 1086 of 1997

(G. T. Nanavati, S. P. Kurdukar JJ)

19.02.1998

JUDGMENT

NANAVATI, J. –

1. The appellant has been convicted under Section 5 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 and Section 25 of the Arms Act, 1959 by the Court of Additional Judge, Designated Court, Jalandhar in TD Sessions Case No. 9 of 1995.
2. What has been held proved against the appellant is that on 5-1-1985 at about 7.30 p.m., when he was apprehended and searched by the police, he was found in possession of one Mauser .30 bore and 7 live cartridges.
3. What is contended by the learned counsel for the appellant is that the prosecution evidence itself shows that the pistol and the cartridges alleged to have been recovered from the appellant did not have any number or some distinctive mark on them and after their seizure by the police they were not sealed. Thus the identity of the weapon and the cartridges seized and the weapon and cartridges produced before the Court was not established by the prosecution. Having gone through the evidence, we find that the contention raised on behalf of the appellant is correct and, therefore, deserves to be accepted. The pistol and the cartridges did not have any mark or any number on them and after seizing the same the police had not thought it fit to wrap them and apply a seal over them. No explanation in that behalf was given by the prosecution witnesses. This aspect was not considered by the trial court. As the identity of the incriminating articles has not been established by the prosecution, we allow this appeal, set aside the conviction of the appellant both under Section 5 of the TADA Act and Section 25 of the Arms Act and acquit him of all the charges levelled against him.