

Jarnail Singh

Vs

State of Punjab

Criminal Appeal No. 687 of 1998

(G.T. Nanavati, S.R. Babu JJ)

12.11.1998

JUDGMENT

NANAVATI, J. –

1. The appellant has been convicted by the Designated Court, Sangrur, in Special Sessions Case No. 75 of 1992 (Sessions Trial No. 265 of 1994) under Section 25 of the Arms Act, 1959 and Section 5 of the Terrorist and Disruptive Activities (Prevention) Act, 1987. He has filed the appeal challenging his conviction and order of sentence passed against him.

2. What is held proved by the Designated Court against the appellant is that he was found in possession of a double-barrelled gun bearing No. 294 without a permit/licence to possess the same. The Designated Court believed the evidence of Head Constable Mall Singh (PW 2) and ASI Baldev Singh (PW 3) both of whom were the members of the police party which had intercepted the appellant and had found the appellant in possession of the said gun. They have stated in their evidence that the gun was in a working condition. It was that type of gun in which gunpowder is required to be filled in first before it could be fired. They were not cross-examined as regards the working condition of the gun.

3. What is contended by the learned counsel for the appellant is that as the identity of the gun was not established and no evidence of an expert was led to prove that it was in a working condition by test firing the same, the appellant ought not to have been convicted for the offences alleged against him. In our opinion, there is no substance in this contention because the type of gun which was found from the appellant was "Mujhal" or "Toredar" gun. As we have pointed out earlier, this type of gun can be fired by first filling it with gunpowder. In respect of such a weapon, no further test firing was necessary in order to find out whether it was in a working condition or not. Once it was found by the police officer that the mechanism was in order, it could be reasonably inferred that it was in a working condition. Therefore, even in the absence of any evidence of an armourer or an expert of that type, evidence of a police officer who is trained in handling guns can be accepted. We, therefore, confirm the conviction and order of sentence passed against him. The appeal is dismissed.