

Harnek Singh

Vs

State of Punjab

Criminal Appeal No. 796 of 1998

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

12.11.1998

JUDGMENT

The Judgment of the Court was delivered by

NANAVATI, J. - The appellant has been convicted by the Designated Court, Sangrur, under Section 25 of the Arms Act, 1959 and Section 5 of the TADA Act, 1987 as he was found in possession of one .22 bore pistol with 25 live cartridges. The Designated Court relying upon the evidence of Inspector Sant Kumar and ASI Darshan Singh held that when the appellant was apprehended, he was found in possession of the said pistol and the cartridges. As 10 cartridges were found loaded in the pistol, the Designated Court relying upon the decision dated 5-2-1998 of this Court in *Kashmira Singh v. State of Punjab* [(1999) 1 SCC 130] and also the evidence of the said two witnesses held that the pistol was in working order. Therefore, even though the pistol and the cartridges were not sent to the armourer for test firing, the Designated Court thought it fit to convict the appellant for the said offences.

2. We have gone through the evidence of both these witnesses. Nothing was brought out in the cross-examination to create any doubt regarding the identity of the weapon. There was no cross-examination regarding the working condition of the pistol. Considering the fact that the two police officers were competent enough to depose about the condition of the weapon and the circumstance that the pistol was loaded with cartridges, it can be said with reasonable certainty that it was in a working condition.

3. We are therefore of the opinion that he was rightly convicted for possessing the said arms without a permit or licence. As he was found in possession of a firearm in the notified area, he was rightly convicted under the TADA Act also. For these reasons, appeal is dismissed.