

Surjit Singh

Vs

State of Punjab

Criminal Appeal No. 602 of 1998

(G. T. Nanavati, S. N. Phukan JJ)

05.05.1999

JUDGMENT

NANAVATI, J. -

1. This appeal is directed against the judgment and order passed by the Designated Court, Amritsar in Sessions Case No. 24 of 1995. The Designated Court convicted him under Section 302 read with Section 34 IPC and Section 3 of the TADA Act, 1987.

2. The case of the prosecution was that on 6-5-1992 at about 7.00 p.m., the appellant along with Paramjit Singh @ Pamma, Sarwan Singh @ Jhaj and Hardip Singh @ Deepa went to the house of Sajjan Singh. They were in military uniform and carried firearms. The appellant had one AK-47 rifle. All of them entered the house of Sajjan Singh and demanded the keys to the "chobara" from his son Attar Singh. As Attar Singh refused to hand over the keys, there was grappling between Attar Singh and those persons. Seeing this incident his son Sukhwant Singh ran out of the house to inform the village people and also to CRPF officials who were present in the village. Meanwhile the accused entered the house and fired some shots. The shot fired by the appellant hit Attar Singh and led to his death.

3. In order to prove its case, the prosecution relied upon the evidence of three eyewitnesses Sajjan Singh (PW 1), Hambar Singh (PW 2) and Satwinder Kaur (PW 3). It is not necessary to refer to the medical evidence and other evidence. The Designated Court believed the three eyewitnesses and convicted the appellant. The other three accused were later killed in a police encounter and, therefore, the trial had proceeded only against the appellant.

4. Learned counsel for the appellant took us through the evidence of Sajjan Singh (PW 1) and the investigating officer and submitted that his evidence on material points stands contradicted by the evidence of the investigating officer and, therefore, he should not have been believed without any independent corroboration. He submitted that according to Sajjan Singh (PW 1) a hand grenade was thrown by the accused and it had exploded. The investigating officer in his evidence has stated that he did not find any evidence to say that any bomb had exploded in the house and, therefore, there was no question of his seizing parts of a bomb from that house. Sajjan Singh (PW 1) has also stated that some window panes were broken as a result of the firing and the police had seized the same. The investigating officer has denied this also. We do not think that these two inconsistencies are of such a nature as would render the evidence of Sajjan Singh (PW 1) unacceptable. An attempt was made to persuade us to hold that the incident had taken at some other place. We see no substance in it. In view of the evidence on record, we will have to proceed on the basis that the incident did take place inside the house of Sajjan Singh and Attar Singh. In fact suggestions were made to the

eyewitnesses in cross-examination and it was also stated by the appellant in his statement made under Section 313 of the CrPC that Paramjit Singh, Sarwan Singh and Hardip Singh had gone to the house of Sajjan Singh (PW 1) and killed Attar Singh. There is no reason to doubt the evidence of the other witnesses and also of the investigating officer that the place of the incident was the house of Sajjan Singh. As regards the evidence of Hambar Singh (PW 2) and Satwinder Kaur (PW 3) no infirmity in their evidence could be pointed out by the learned counsel. The incident took place at about 7.00 p.m. and, therefore, they were very likely to be present in their house. Therefore, there is no good reason to doubt their presence. Nothing has been brought about in the cross-examination which would create any doubt regarding the veracity of their evidence. The evidence also discloses that they had no enmity with the accused and there was no reason for them to falsely involve the accused in commission of this crime.

5. It was further argued by the learned counsel for the appellant that even if it is believed that the incident had taken place in the house of Sajjan Singh, the appellant should have been acquitted as in the first information report, the name of the appellant was not mentioned as one of the assailants. We do not find any substance in this contention also. It was stated in the first information report that along with accused Paramjit Singh @ Pamma, his brother was also present. In his further statement, the complainant had clarified that the name of that brother is Kakku. The evidence discloses that the appellant's nickname is Kakku. In fact all the accused were known to the witnesses since long and, therefore, there was no question of any mistaken identity. As we do not find any substance in any of the contentions raised by the learned counsel for the appellant, this appeal fails and is dismissed.