

SUPREME COURT OF INDIA

Saeed Ahmed

Vs.

State of U.P.

Crl.A.Nos. 454-55 of 1999

(K. T. Thomas and D. P. Mohapatra JJ.)

03.02.2000

ORDER

K.T. Thomas, J.

1. This is an appeal by right under Section 19 of the Terrorists Disruptive Activities (Prevention) Act (for short 'TADA'). Appellant was charged under Sections 3 and 4 of TADA besides Sections 353 and 307 read with Section 34 of the Indian Penal Code along with some other accused. In the second charge Section 14 of the Foreigners Act read with Section 13 thereof was pitted against him. The Designated Court acquitted the Appellants under Sections 3 and 4 of TADA, and also under Section 207 of the Indian Penal Code. He was convicted under Section 353 of the Indian Penal Code and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 5,000/- in default of payment to undergo further imprisonment for a period of six months. In the other case he was convicted under Section 14 of the Foreigners Act and was sentenced to rigorous imprisonment for five years and to pay fine of Rs. 5,000/ - in default of payment to undergo imprisonment for a further period of one year.

2. The case against the Appellant was that he was driving a Maruti van No. DID 9016 for aiding the co-accused who was member of a terrorist organisation called "Harkat-ul-Anwar" which was then

engaged in the attempt to murder members of a police party headed by the Circle Inspector of Police, Doradnagar. The charge under Section 353 I.P.C. was put against him on the allegation that he along with the co-accused, on 31.10.94 at about 11.00 p.m. used criminal force to deter the aforesaid police personnel from discharging their duties. The further case against the Appellant was that he transported three British Nationals in his Maruti Van from Delhi to a village in Saharanpur on the same day and those British Nationals were victims of kidnapping perpetrated by the terrorist organisation.

3. Learned Counsel for the Appellant candidly conceded that the conviction entered by the TADA Court against the aforesaid two counts of offences cannot possibly be challenged as it was supported by evidences. He made a plea that the sentence imposed under the two counts may be directed to run concurrently.

4. We have anxiously considered the aforesaid plea. In view of the nature of offence against him that he rendered assistance to foreign nationals who were engaged in terrorist activities and also the case that he transported a member of a terrorist organisation "Harkat-ul-Anwar we cannot persuade ourselves to extend the benefit of the discretion confer (conferred?) on the Court under Section 427(1) of the CrPC. We, therefore, decline the prayer. The appeals are disposed of accordingly.