

SUPREME COURT OF INDIA

Karamjit Singh

Vs.

State (Delhi Admn.)

Crl.A.No.846 of 1995

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

24.04.2000

JUDGEMENT

D.P. MOHAPATRA, J.:-

1. This appeal filed by accused Karamjit Singh is directed against the Judgment/Order passed by the Designated Court-II, Delhi in Sessions Case No. 117/95. In the said case the appellant along with other three accused persons was tried on the charge under S. 120-B, S. 4(1) read with sub-secs. (3)(a) and (b) of the Terrorist and Disruptive Activities (Prevention) Act, 1985 and in addition the appellant was charged under S. 307, IPC, Section 4(1) sub-sec. (2)(1) of TADA and S. 6 of TADA.

2. The prosecution story shorn of unnecessary details, may be stated thus : On 2-10-1986, on the birth anniversary of Mahatma Gandhi, the President of India, the Prime Minister of India and other VIPs were to visit the Samadhi of Mahatma Gandhi at Rajghat for holding prayers. The Prime Minister and his wife along with their personal security officers arrived at the VIP gate Rajghat at about 6.50 a.m. As they were proceeding from the gate towards the Samadhi a shot was fired in the direction of the Prime Minister. The sound of the shot was heard and some disturbance was noticed

in a flower bed on the right side of the VIP passage, 10-15 paces from the gate. On search a lead ball was recovered.

3. After the prayer ceremony the President, the Prime Minister and his wife and other VIPs accompanied by the security officers were returning from the Samadhi towards the gate a shot was fired in the direction of the Prime Minister followed by another shot in the same direction and as the Prime Minister reached the middle step approaching the VIP gate yet another shot was fired in the same direction. Though all the shots missed the target (Prime Minister) the third shot caused fire-arm injuries to six persons. One of the security officers noticing a trail of smoke emerging from the growth spread over the canopy, approached the spot, fired from his revolver into the growth and challenged the person to show up. Some other security officers also took similar steps. On being challenged by the security officers the appellant-Karamjit Singh stood up with a country-made pistol dropped it and surrendered. The .12 bore country-made pistol used by the appellant in the assassination attempt was seized. It was found containing one empty .12 bore K.F. cartridge inside the barrel. Some more cartridges and an empty shell of .12 bore cartridge were recovered at the place from where the appellant was hiding. Some other articles like a coloured 'chaddar', a tube of quickfix, a match box, a tube of odomos cream etc. were also found from the roof of the canopy.

4. In course of investigation it came to light that the appellant had initially given a false name of himself as Manmohan Desai, resident of Mathura, that there was a criminal conspiracy to assassinate the Prime Minister with a view to overawe the Government established by law and strike terror amongst the people. The whole thing was a well orchestrated, pre-planned move.

5. On completion of the investigation the Central Bureau of investigation submitted charge-sheet on the basis of which the appellant and other accused persons were sent for trial to the Designated Court. The learned trial Judge by the impugned judgment held the appellant guilty of the charges framed against him and sentenced him to undergo Rigorous imprisonment for a period of 14 years and also to pay a fine of Rs. 10,000/- for the offence under S. 120-B of the IPC and in default to undergo R.I. for another six months; to undergo RI for life and to pay a fine of Rs. 10,000/- in default of payment for further R.I. for six months for the offence under S. 307, IPC; to a life term and a fine of Rs. 10,000/- with similar default sentence for the offence under S. 4(1) read with sub-sec. (3)(a) and (b) of the TADA Act 1985; again to a life term and Rs. 10,000/- with similar default sentence for the offence under S. 4(1) read with sub-section (2)(1) of the TADA Act and to undergo for life term and a fine to Rs. 10,000/- with similar default sentence as above under S. 6 of the TADA Act, with the further direction that all the sentences against the accused-appellant shall run concurrently and that the appellant would be given the benefit under S. 428 of the Code of Criminal Procedure. The said judgment/order is under challenge in the present appeal.

6. At the commencement of the hearing of the case Shri Som Raj Datta, learned Senior Counsel appearing for the appellant expressly stated that he does not intend to challenge the judgment/order of conviction of the appellant of the offences of which he has been convicted. The learned counsel

concentrated on the question of sentence only. The learned counsel pleaded for leniency in the matter. Therefore, the only question to be considered is whether, in the facts and circumstances of the case and on the findings recorded by the learned trial Judge the appellant is entitled to any leniency in the matter of punishment awarded against him.

7. The punishment prescribed under Ss. 3, 4 and 6 of the TADA Act are imprisonment for a term of not less 5 years to life imprisonment and also fine. On a reading of these statutory provisions it is manifest that the Parliament has considered the culpability dealt with in these provisions as serious threats to society and the country, and, therefore, has provided stringent punishment for the offences. Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.

8. After giving our anxious consideration to the question of reduction of sentence as urged on behalf of the appellant and objected to on behalf of the respondent, we have come to the conclusion that some consideration should be shown to the appellant in the matter. In coming to this conclusion we have taken into account the facts that he has spent long period, more than thirteen years, in jail, that he was a young man of 21 years when he committed the acts giving rise to the case, that the situation then prevailing in the State of Punjab was surcharged with acts of terrorism and several misguided young men were drawn into the movement that in the meantime the movement has subsided and it could be reasonably taken that the State is free from the menace of terrorism. In taking the decision to show some consideration to the appellant in the matter of punishment we have reposed confidence in goodness of human character which is a part of the personality of every human being. We hope and believe that our confidence will not be belied in the case of the appellant. In the facts and circumstances of the case and the changed social environment which has taken place in the meantime, it is our considered view that the sentence of life imprisonment should be modified to the period already undergone (about 13 years 7 months). Before being released from Jail in the case, the appellant will notify the jail authority the place and the address at which he intends to stay. On receipt, of which the jail authority will intimate the Superintendent of Police of that place with a request to him to keep the appellant under observation. If the Superintendent of Police finds that the appellant is indulging in any illegal activity which amounts to an offence under any law, he shall immediately send a report to the Registrar General of this Court. With this

modification of sentence as noted above, this appeal is dismissed.

Appeal dismissed.