

SUPREME COURT OF INDIA

Gurprit Singh

Vs.

State of Punjab

Crl.A.No.609 of 2001

(N. Santosh Hegde and S. N. Variava JJ.)

20.09.2001

ORDER

1. The appellant before us was charged for offences punishable under Ss. 302, 450 read with S. 34, I. P. C. and Section 3 read with Section 4 of the *Terrorist and Disruptive Activities (Prevention) Act, 1987* (the 'TADA') for having committed the murder of Kapur Singh, Sham Kaur, Karnail Singh and Dhira Singh on the evening of 2nd May, 1988. The Additional Judge, Designated Court, Bhatinda by his judgment dated 5th May, 2000, while acquitting the appellant of the charges framed under 'The TADA', convicted him for the offences punishable under Sections 450, 302 read with Section 34, I. P. C. Hence this appeal.

2. The prosecution case in brief is that on 2-5-1988 the appellant along with co-accused Kulwant Singh, Hari Singh and Daya Deepak Singh (now reported to be dead), in furtherance of the common intention of committing the murder of the above said deceased persons, went to the house of Kapur Singh with fire arms and caused the death of the said four persons.

3. The prosecution, in support of its case, examined PW3-Gurmail Kaur and PW 4-Gurmail Singh who were said to be eye-witnesses and also relied upon the confessional statement made by the appellant before PW10-Satish Kumar Sharma, IPS, DIG, marked in the evidence as Ex.PCC/5. The above said two eye-witnesses have not supported the prosecution case, hence, the trial Court relied solely upon the confessional statement while acquitting of the charges under 'The TADA' found the appellant guilty of the offences punishable under Section 302, I. P. C. read with Section 34, I. P. C. and sentenced him as stated above.

4. In this appeal, Ms. Jaspreet Gogia, learned counsel for the appellant has contended that the evidence by way of the confessional statement, being the sole material before the trial Court, same cannot be relied to base a conviction and there being no other evidence the appellant is entitled to be acquitted of the charges levelled against him. At this stage, it is fairly conceded by Ms. Geetanjali Mohan, learned counsel appearing for the State of Punjab that this Court, in the case of *Bilalahmed Kaloo v. State of A. P.*¹ on similar fact situation has held:

Para 5

"While dealing with the offences of which the appellant was convicted there is no question of looking into the confessional statement attributed to him, much less relying on it since he was acquitted of all offences under TADA. Any confession made to a police officer is inadmissible in evidence as for these offences and hence it is fairly conceded that the said ban would not wane off in respect of offences under the Penal Code merely because the trial was held by the Designated Court for offences under TADA as well. Hence the case against him would stand or fall depending on the other evidence."

5. It is clear from the said judgment that the confessional statement recorded during the investigation in a TADA case cannot be used for convicting an accused for offences punishable under Penal Code, when offences against such accused under 'The TADA' has failed.

6. In the instant case, it is an admitted fact that the appellant has been acquitted of the charges framed under TADA and that apart from the confessional statement referred to hereinabove, there is no other material before the court to support the prosecution case. In that view of the matter, relying upon the judgment referred to hereinabove, this appeal has to be allowed. Accordingly, the present appeal is allowed. The judgment under appeal is set aside. Consequently the conviction and sentence passed by the trial Court also has to be set aside.

7. The accused shall be set at liberty forthwith.
Appeal allowed.

¹(1997) 7 SCC 431