

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G

Criminal Appeal No. 842/2000

Manjit Singh

Appellant

VERSUS

State of Punjab
(With Office Report)

Respondent

Date : 14/12/2000 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE R.P. SETHI

For Appellant

Ms. S. Janani, Adv.

for Respondents

Mr. Udai Kumar, Adv.
for Mr. Rajeev Sharma, Adv.

UPON being mentioned the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....J.
.....L.....I.....T.....T.....T.....T.....T.....T.....J.

.SP2

Appeal is disposed of in terms of the signed order.

.SP1

(N.K. GOEL)

(H.K. BHATIA)@@

BB

COURT MASTER

COURT MASTER@@

BB

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 842 OF 2000@@

EE

Manjit Singh

...Appellant

Vs.

State of Punjab

...Respondent

.....L.....I.....T.....T.....T.....T.....T....J
.SP2

Appellant was 1st accused in a case before a Designated Court. There were two more accused along with him, one was his brother and the another was his father. They were acquitted, but appellant was convicted under Section 307 of the Indian Penal Code and also under Section 5 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA). On the first count he was sentenced to imprisonment for 7 years and on the second count he was sentenced to imprisonment for 6 years. As this appeal was filed under Section 19 of the TADA appellant has a statutory right to maintain this appeal.

We heard Ms. S. Janani, advocate in extenso. Mr. Udai Kumar, advocate for the State of Punjab wanted some more time to produce the translated copies of the depositions but Ms. S. Janani, advocate argued with reference to the evidence in this case and we felt that
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it would not be fair to adjourn the matter as the appellant is continuing in jail.

The prosecution case relates to an episode which happened on 31.7.1990. During the said period there was great turbulence in the State of Punjab. TADA was enforced to contain the terrorists activities. According to the prosecution, PW-7 (Jarnail Singh) sub-inspector of Police, on getting information that terrorists were being harboured in the house of the appellant, proceeded to that house with a posse of police personnel during the wee hours of the day. PW-7, father of the appellant was woken up (who was arraigned as A-3 in the trial court) from whom the police officer knew that some other persons were on the up-stairs of the building. He, therefore, rushed to that place and found the appellant, his brother (A2-Amar Singh) and another terrorist who was a proclaimed offender. PW-7 immediately signalled to his police force to encircle the house, so that, any bid for escape by the terrorist could be prevented. A2-Amar Singh fired at PW-7 with one AK-47 and he sustained injuries thereby. Appellant-Manjit Singh fired at PW-7 with a country made pistol/revolver (it is not clear as which was the one out of the two categories of firearms was used by the appellant). The said firing hit PW-7 Jarnail Singh on
..3/-

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his shoulder etc. Appellant was arrested from the same place and others escaped. Appellant had sustained injuries as the police force fired at him in self defence.

There can be no doubt that PW-7 had sustained firearm injuries. This is spoken to by PW-3 (Dr. B.D. Gupta) who examined PW-7. In fact the defence also could not dispute the fact that PW-7 sustained those injuries. He narrated the above prosecution version with all details. PW-5, a Head Constable (Harbans Singh) who too was in the force which reached the house of the appellant had given full details of the occurrence.

The trial court accepted the evidence of PW-7 and PW-5 and found that prosecution has proved the case against appellant beyond any doubt. Accordingly, he was convicted and sentenced as aforesaid.

However, the Designated Court was not persuaded to convict the 2nd accused (Amar Singh) and A-3 (Mohinder Singh). Accordingly, they were acquitted.

Ms. S. Janani, learned counsel contended that the evidence of PW-7 is too insufficient for basing the conviction against the appellant. She highlighted mainly three points in support of her contention. 1st was that no independent witness had been examined by the prosecution to support the police version. Second is

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that the pistol/revolver said to have been used by the appellant was not subjected to ballistic analysis. The 3rd, which we also thought to be a forceful argument, is that on the same evidence the Designated Court found A-2 (Amar Singh) not guilty.

Dealing with the last contention we also felt that the acquittal of A-2 was not on sturdy grounds. But as the State of Punjab did not prefer any appeal against that acquittal it is not proper on our part to say anything more about the said acquittal. But benefit of that acquittal cannot be given to the present appellant.

Regarding the 1st point highlighted by the learned counsel we have to observe that the incident happened during the wee hours of the day and no independent witness could be expected at that time to be present in a house where terrorists were feared to have been harboured. It is also a fact that in the condition which prevailed in Punjab during those years no independent person would dare to go and stand as a witness for any terrorist activity. Hence the mere fact that the evidence of PW-7 and PW-5 (Head Constable) was not further supported by any other independent person is not a ground to brush aside the otherwise sturdy evidence of those two police officers.

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We do not know whether the firearm was subjected to ballistic analysis. We accept the stand of the defence that the same has not been sent for ballistic tests. None-the-less the fact remains that PW-7 himself was shot at by somebody at close quarters and PW-7 was the most competent person to say who that person could be. When PW-7 pointed at appellant as the assailant there is no reason to disbelieve him.

According to us the prosecution proved the case against the appellant beyond any doubt. Hence the conviction passed on the appellant is only to be maintained, and we do so. At the same time, we are mindful of the improvement in the situation in Punjab and hence we are inclined to give some amelioration to the appellant in the matter of sentence. We, therefore, reduce the sentence to imprisonment for five years in respect of both counts. Sentences on both counts will run concurrently. Appeal is disposed of accordingly.

.SP1

.....J.
(K.T. Thomas)

New Delhi;
December 14, 2000.

.....J.
(R.P.Sethi)