

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

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO. 1127 OF 2005

DALJIT SINGH & ANR.

Appellant (s)

VERSUS

STATE OF PUNJAB

Respondent(s)

(With appln(s) for bail and office report)

Date: 08/11/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Appellant(s)

Mr. Sushil Kumar, Sr.Adv.

Mr. P.S. Hundal, Adv.

Mr. Adolf Mathew,Adv.

Mr. Vinay Arora, Adv.

Mr. R.P. Wadhvani,Adv.

For Respondent(s)

Mr. Arun K. Sinha,Adv.

Mr. Rakesh Singh, Adv.

Mr. Mukesh Kumar Sinha, Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. C.D. Gupta, Presiding Officer, has appeared in Court today

It has been stated that the officer has now superannuated from service. As the purpose was official, we direct the State of Punjab to reimburse the traveling allowance spent by the officer. We estimate that total expenses

would be Rs.2000/-, which may be paid to the officer by  
a demand draft

within four weeks from today.

Heard learned counsel for the parties.

The appeal is allowed, convictions and sentences awarded again  
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The appellants are set aside and they are acquitted of all the charges.  
The appellants, who are in custody, are directed to be released forthwith if no  
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required in connection with any other case.

[ Alka Dudeja ]

Court Master

[ Om Prakash ]

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1127 OF 2005

Daljit Singh and Anr

...Appellant(s)

Versus

State of Punjab

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

The two appellants were convicted by the Designated Court under Section

302 read with Section 34 of the Indian Penal Code [for short, 'I.P.C.'] and sentenced to undergo imprisonment for life and to pay fine of Rs.3000/-; in default to undergo rigorous imprisonment for six months. They were further convicted under Sections 3 (3) and 4(1) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 [for short, 'the TADA Act'] and sentenced to undergo rigorous imprisonment for ten years and to pay fine of Rs.2000/- each; in default to undergo rigorous imprisonment for a period of six months. Apart from the aforesaid convictions, Appellant No.1 was convicted under Section 307 read with Section 34 I.P.C. and Appellant No.2 under Section 307 I.P.C. simplicitor and both of them were sentenced to undergo rigorous imprisonment for a period of seven years and to pay fine of Rs.2000/- each; in default to undergo rigorous imprisonment for a period of six months. The sentences were, however, ordered to run concurrently. Hence, this appeal.

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The occurrence in the present case is said to have been taken place on 10th

June, 1986, on which day the Terrorist and Disruptive Activities (Prevention) Act,

1985 [for short, '1985 Act'] was in force. In the present case, the prosecution has led

evidence of P.Ws 1, 2 and 3, who claimed to be eye witnesses and out of them P.W.3 is

an injured witness. Apart from the evidence of these two eye witnesses, the

prosecution has relied upon the confessional statements of the two accused persons,

which was recorded by the Superintendent of Police, P.W.10. So far as the confession

recorded by the Superintendent of Police is concerned, it may be stated that under

1985 Act there was no provision like Section 15 of the Terrorist and Disruptive

Activities (Prevention) Act, 1987 [for short, 1987 Act'] whereby confession recorded by

an officer of the rank of Superintendent of Police has been made admissible. In the

present case, as the occurrence had taken place prior to the coming into force of the

1987 Act, when 1985 Act was in force wherein there was no such provision like Section

15 of the 1987 Act, the confession recorded was not admissible and could not have

formed the basis of conviction. Turning now to the ocular version of the occurrence,

out of the three eye witnesses, P.W.1 has specifically stated in his evidence in Court

that none of these two appellants had any complicity with the crime. P.W.2 has turned

hostile and has not supported the prosecution case. So far as P.W.3 is concerned, he

deposed in Court on 1st February, 2001, that is after 15 years of the date of alleged

occurrence and for the first time he claims to have identified the appellants though he

did not name them before the police. As such it would not be safe to place reliance

upon the evidence of such a

....3/-

- 3 -

witness. For the forgoing reasons, we are of the view that the prosecution has failed to

prove its case beyond reasonable doubt and the Designated Court was not justified in

convicting them.

In the result, the appeal is allowed, convictions and sentences awarded

against the appellants are set aside and they are acquitted of all the charges

arges. The

appellants, who are in custody, are directed to be released forthwith if not required in connection with any other case.

.....J.

[B.N. AGRAWAL]

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.....J.

[A.K. MATHUR]

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New Delhi,

November 08 , 2005.