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Crl.A.No. 1104-1106 OF 1998

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Item No. Court No. Section
103 01 IIA

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

Criminal Appeal Nos. 1104-1106 of 1998

Mohd. Jalees Shafiullah Ansari Appellant (s)

vs.

State of Maharashtra Respondent(s)

(with office report)

with Criminal Appeal Nos. 876-878/1999 (State of Maharashtra vs. Mohd. Jalees Shafiullah Ansari & Ors.) (with appln.(s) for condonation of delay in filing crl. appeal and with office report for direction)

Date:08/08/2002 This/These matter(s) was/were called on for hearing today.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For the Appellant (s):

in Crl.A.1104-06/98 Mr. Sushil Kumar, Sr. Adv.
Mr. Adolf Mathew, Mr. Sanjay Jain and
Mr. Goodwill Indeevar, Advs.

in Crl.A.876-878/99 Mr. R B Masodkar, Adv.
Mr. Naresh Kumar, Adv.
Mr. V N Raghupathy, Adv.

For the Respondent(s):

in Crl.A.1104-06/98 Mr. R B Masodkar, Adv.
Mr. Naresh Kumar, Adv.
Mr. V N Raghupathy, Adv.

in Crl.A.876-878/99 Mr. Sushil Kumar, Sr. Adv.
Mr. Adolf Mathew, Mr. Sanjay Jain and
Mr. Goodwill Indeevar, Advs.

Ms. Sangeeta Kumar, Adv.(NP)

Mr. R P Wadhvani, Adv. (NP)

UPON hearing the counsel the Court made the following
ORDER

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Heard Mr. Sushil Kumar, learned senior counsel from
11.25 A.M. to 2.15 P.M. and Mr. R B Masodkar for about five
minutes.

The appeals are dismissed in terms of the signed order.

(D.P. Walia)
Court Master

(S.L. Goyal)
Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 1104-1106 OF 1998@@
CC

Mohd. Jalees Shafiullah Ansari ..Appellant(s)

vs.

State of Maharashtra ..Respondent(s)

WITH

CRIMINAL APPEAL NOS. 876-878 OF 1999@@
CC

State of Maharashtra ..Appellant(s)

vs.

Mohd. Jalees Shafiullah Ansari & Ors. ..Respondent(s)

O R D E R@@
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On 17th September, 1993, an incident took place where there was a bomb blast near Shiv Sena Shakha No. 52. According to the evidence on record which has been accepted by the Designated Court, a piece of iron pipe was recovered. That pipe was taken by two police officers for finding out whether there was any finger print on the same. The report of the Expert was that two finger prints existed and finger prints were photographed. One of them was fit for comparison. All this action took place on 17th September, 1993.

In connection with the Bombay Blast case, the appellant Dr. Ansari was apprehended on 19th January, 1994. In that case, the finger prints of Dr. Ansari and five other ..2/-

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accused were taken. It was the case of the prosecution that the police thought it proper to see whether the finger print on the pipe which had been recovered on the 17th September, 1993 matched with any of the finger prints which had been taken on 19th January, 1994. On the finger prints being matched, the Expert came to the conclusion that the finger print of Dr. Ansari, the appellant herein, did match with the finger print on the pipe which had been recovered from the scene of the incident on 17th September, 1993.

By a detailed judgment, the Designated Court came to the conclusion that in the instant case the provisions of Section 21(1)(b) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (for short "TADA Act") were applicable which, inter alia, provides that if it is proved by evidence of an Expert that the finger prints of the accused were found at the site of the offence or on anything including arms and vehicles used in connection with the offence, then the Designated Court shall presume, unless the contrary is proved,

that the accused had committed such offence. By invoking this provision, the Designated Court held that as the finger prints of the appellant herein were on the pipe recovered from the site where the offence of blasting a bomb had occurred the presumption contained in this sub-section was attracted. The appellant herein was not able to rebut this presumption and in view thereof the appellant was convicted of offence punishable ..3/-

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under Section 3(2)(ii) of the TADA Act and was sentenced to suffer rigorous imprisonment for 10 years and to pay a fine of Rs. 10,000/- and in default to suffer rigorous imprisonment for another one year. The appellant was also convicted of an offence under Section 5 of the TADA Act and was sentenced to suffer five years' imprisonment and a fine of Rs. 5,000/-. He was acquitted of the other offences both under the TADA Act and under Sections 120B, 302, 307, 435 and 436 of the Indian Penal Code.

Along with the appellant accused 2 to 13 were also tried but by the impugned judgment they were all acquitted against which the State has filed Criminal Appeal Nos. 876-878 of 1999.

We have heard the learned counsel for the parties at length and have gone through the records of the case. We agree with the finding that on 17th September, 1993 an iron pipe was recovered from the scene of the incident. This recovery is amply proved, apart from the police witnesses, by the Panch witnesses who were independent. There is no reason to disbelieve that the said iron pipe was taken for examination in order to find out if any finger prints existed. Evidence is on record which shows that there were two finger prints on the pipe and they were duly photographed. One of these finger prints matched with the finger print of the appellant which was taken on 19th January, 1994. The taking ...4/-

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of the finger prints on 19th January, 1994 is also proved by the evidence on record and there is nothing to disbelieve the witnesses in respect thereof. This being the position, the trial court rightly convicted the appellant by invoking the provisions of Section 21(1)(b) of the TADA Act.

This brings us to the Criminal Appeal Nos. 876-878 of 1999 filed by the State of Maharashtra. Apart from the fact that we see no reason to disagree with the findings of the trial court, these appeals are barred by time, the delay being of 281 days. We see no reason for condoning the delay and no ground has been made out satisfactorily explaining the reason for the delay.

As a result thereof, these appeals are dismissed.

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.....CJ.

.....J.
(K.G. BALAKRISHNAN)

.....J.
(ARIJIT PASAYAT)

New Delhi;

August 8, 2002.