

Supreme Court of India

Sans Pal Singh vs State Of Delhi on 8 January, 1998

Equivalent citations: AIR 1999 SC 49, 1999 CriLJ 19, (1998) 2 SCC 371

Bench: M Punchhi, M Srinivasan

JUDGMENT

1. This is an appeal against the judgment and order of the Additional Judge, Designated Court, Delhi in Sessions Case No. 47 of 1997, whereby the accused-appellant Sans Pal Singh stands convicted for offences under Section 5 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 read with Section 25 of the Arms Act and sentenced in a measure disclosed in the order of sentence.

2. The prosecution case was that on 5-2-1991, Head Constable Sat Pal Singh, PW 5 and SI Mahipal Singh, PW 6 together with some constables were on duty to check vehicles at G.T. Karnal Road near Model Town police post. A vehicle was stopped wherefrom alighted the appellant. He swiftly walked towards Gujrawala Town Road on account of which suspicion arose in the minds of the police officers. He was stopped and his search was conducted by the a forenamed two police officials. As a result, a country-made pistol was recovered from the right pocket of his trousers and also two live cartridges. It is on that basis that the appellant was ultimately charged before the Designated Court, convicted and sentenced, as aforesaid.

3. Inter alia, it has been urged by the learned counsel for the appellant that it would not be safe to maintain the conviction because the recovery of the illicit arms did not inspire confidence, supported as it is, by the evidence of two police officials alone, unassociated by the testimony of any independent witness. It has also been urged that witnesses of the public were available and neither were they associated nor was any explanation given at the trial as to why they were not associated. From the evidence of PW 5 Head Constable Sat Pal Singh, it is clear that the police party did not ask any public witness to be witness at the time of search of the accused. Likewise, PW 6 Sub-Inspector Mahipal Singh has also stated that no public witness was joined at the time of the search of the accused even though a number of persons were passing through at the time when the recovery was being effected. It is thus evident that public witnesses were available and could have been associated to witness the recovery. It would have been a different matter altogether had there been no public witness available or none was willing to associate. Here, as said before, public witnesses were available but no explanation on these lines is forthcoming. Thus, we got to the view that it would be unsafe to maintain the conviction of the appellant for the offences charged. We, therefore, order his acquittal. He is in jail. He be set at liberty forthwith.