

PETITIONER:
JAGTAR SINGH

Vs.

RESPONDENT:
STATE OF PUNJAB

DATE OF JUDGMENT: 19/04/1996

BENCH:
HANSARIA B.L. (J)
BENCH:
HANSARIA B.L. (J)
RAY, G.N. (J)

CITATION:
1996 SCALE (3)612

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

HANSARIA, J.

The appellant has been convicted under section 25 of the Arms Act read with section 5 of Terrorist and Disruptive Activities (Prevention) Act, (for short 'TADA'). It has pained us to know that despite he having a full-proof defence, it has come to be rejected by the Designated Court on the ground that it was "an after thought". The appellants defence was that the .315 bore rifle, which was said to have been recovered from his possession on 25.5.1990, was to bolster up a false case against him under section 307 IPC, and the weapon was in fact one which was licenced in the name of Avtar Singh, a partner of the appellant in a liquor business, and was taken possession of on 23.5.1990, to prove which Avtar Singh was examined as DW.1. The Designated Court, however, regarded the defence as "an after thought" because prosecution witnesses had not been asked about the same by giving any suggestion to them in cross-examination. We are afraid the Court made an apparent error in saying so inasmuch as PW.1, SI Gurinder Singh, who deposed about the recovery of the arm from the appellant, had been specifically asked that the rifle was licenced in the name of Avtar Singh; and PW.2, SI Karnail Singh was suggested that the rifle in question belonged to Avtar Singh and had taken possession from him. It is a defferent matter that these suggestions were denied. What is more, PW.2 admitted that in the DDR (Daily Diary Report) there was no mention about details of the case property recovered from the appellant.

2. Nothing further was required, according to us, to be asked to the prosecution witnesses and the learned Additional Judge committed gross error in rejecting the aforesaid plea on the ground that it was "an after thought".

3. We, therefore, allow the appeal, set aside the conviction and order for the release of the appellant forthwith from jail if not needed in connection with other case.

JUDIS