

(1991) 01 SC CK 0010

In the Supreme Court Of India

Case No : Criminal Appeal No. 293 of 1988

Kathula Somulu @ Mallanna and another

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 08-01-1991

Acts Referred:

Arms Act, 1959 — Section 25(1)

Terrorist and Disruptive Activities (Prevention) Act, 1987 — Section 3, 3(1), 4

Citation : AIR 1991 SC 1556 : (1991) CriLJ 1905 : (1991) 2 Crimes 670 : (1991) 1 SCALE 838 : (1991) 1 SCC 295 Supp

Hon'ble Judges : S. Ratnavel Pandian, J;K. Jayachandra Reddy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal is directed against the judgment of the Designated Court under Terrorist and Disruptive Activities (Prevention). Act (for short Tada'). The appellants convicted u/s 3(3) of the Act are sentenced to three years' imprisonment and also to pay a fine of Rs. 100/- each in default to undergo simple imprisonment for one month. The first appellant is also convicted u/s 25(1)(a) of the Indian Arms Act and sentenced to one year's imprisonment. The second appellant is convicted u/s 5 of Explosive Substances Act. All the sentences are to run concurrently. Section 3(3) of the 'Tada' lays down that whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of a terrorist act or any act preparatory to a terrorist act shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and shall be liable to fine. The submission of the learned Counsel for the appellant is that even if the prosecution case is accepted into the provisions of Section 3(3) were not attracted. It is necessary to state the necessary facts.

2. The appellants are the members of CPI (ML) Group. On 22.6.86 on reliable information the S.I. of Police, Chintur with other police personnel proceeded to

Goundlakota Village and conducted raids in the forests. While they were returning to Chintur, they found some extremists proceeding towards Hillock near Gone gutta of Kalthur village. They were chased and the two , appellants, with one country-made pipe-gun (Tapancha) and two country-made bombs and pellets. A case was registered under the provisions of the Arms Act and Explosive Substances Act and also under Sections 3 and 4 of 'Tada'. Panchanamas were prepared for the recovery of the weapons as well as explosive substances. The prosecution examined PWs-1 to 4. PW-1 is the S. I. of Police and is a prosecution witness and the PW-2 is the panch-witness. The learned designated Judge accepted the evidence and found the appellants guilty.

3. Section 2(f) defines the 'Terrorist Act' and has the meaning assigned to it in Sub-section (1) of Section 3 of 'Tada'. The provisions of Section 3(3) which deal with the conspiracy or attempt or abetment or inciting or facilitation of the commission of a terrorist act. The fact that these appellants were found in the group of other persons in the forest area and were seen running away after seeing the police and coupled with the recoveries of the explosive substances including the country-made fire-arms would lead to the inference that the appellants along with others were engaged in conspiracy or in attempt to commit or abet the 'terrorist act'. The learned counsel for the appellant could not show any infirmity in the evidence of PWs-1, 2 and 4 in respect of the chase and apprehension of the accused and the recovery of weapons as well as explosive, substances. The minimum sentence has been awarded and no inference is called for. The appeal is dismissed.