

(2022) 07 TEL CK 0015

In the Telangana High Court

Case No : Criminal Appeal Nos. 23, 28, 34, 36, 37, 38, 340, 795, 985, 997 And
1900 Of 2005, 1105 Of 2006

Mohd. Khasim Khasim And Another

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 07-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 20
Indian Penal Code, 1860 — Section 120A, 120B, 124A, 153A, 295, 295A, 296, 307,
324, 325, 326, 395, 436
Explosive Substances Act, 1908 — Section 3, 4, 5, 6
Arms Act, 1959 — Section 25(i)(a), 27
Code Of Criminal Procedure, 1973 — Section 300

Citation : (2022) 07 TEL CK 0015

Hon'ble Judges : K.Surender, J

Bench : Single Bench

Advocate : H V R R Swamy

Final Decision : Dismissed

Judgement

1. The appellants in all the appeals aggrieved by the judgment of the Additional Metropolitan Sessions Judge for trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court, Hyderabad (for short 'the learned Sessions Judge') in S.C.No.95 of 2001 dated 22.11.2004, convicting the appellants for the offences under Section 120B IPC and sentenced to rigorous imprisonment for a period of six months, present appeals filed.

2. Briefly, the case of the prosecution is that the appellants herein and also the charge sheeted accused A1 to A7, who are residents of Pakistan were all part of Jamat-E-Hizbul Mujahideen. A1 is the chief namely Deendaar Anjuman and head of Jamat-E-Hizbul Mujahideen. He along with other accused/appellants who are members of the said organization entered into criminal conspiracy with the cause to carryout several terrorist acts for the purpose of desecration of places of worship and disrupting religious assemblies and other terror related activities. In

the said process, the appellants herein have planted Improvised Explosive Devices (for short 'IEDs') at various religious places, which resulted in communal disharmony and disaffection towards the Government, for which reason they are liable for the offences under Sections 120B, 124A, 153A, 295, 295A, 296, 307, 324, 325, 326, 395, 436 IPC and Sections 3 to 6 of Explosive Substances Act and Sections 25(i)(a) and 27 of Arms Act.

3. Accordingly, all the appellants/accused were charged for the said offences under 30 different counts/charges. The details of the charges framed are not relevant for the purpose of adjudication of these appeals.

4. Further, the prosecution has also marked Exs.P1 to P558 and also material objects MOs.1 to 142. The description of said exhibits and material objects is also not required to be written in detail as the same is not necessary for adjudication of the present appeals.

5. During the course of trial, the points which were considered by the learned Sessions Judge are as follows:

1. Whether there is criminal conspiracy among the accused to foment communal disharmony and in that connection whether they have committed any specific overt acts?

2. Whether the accused maliciously insulted the religious belief, caused disturbance to the religious assemblies?

3. Whether the accused committed deliberate and malicious acts with intent to insult the religion or intending to outrage the religious feelings of any class?

6. The provisions of Section 120A IPC are as follows:

When two or more persons agree to do, or cause to be done:-

(1) an illegal act or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

7. Having recorded the oral evidence and also on the basis of the documentary evidence and material objects marked during the course of trial, the learned Sessions Judge came to conclusion that the appellants are guilty for the offence of criminal conspiracy.

8. The evidence recorded disclosed that these appellants were part of the said organization/ Deendar Anjuman(A-1) organization along with A1 to A7 who were not tried along with the accused herein as they are residents of Pakistan.

9. Learned Sessions Judge on the basis of the evidence recorded came to conclusion that the prosecution was able to prove that there were meetings amongst the accused for committing criminal acts. Arrests and seizures effected from the accused would go to show that they were also complicit in preparation and manufacturing of IEDs. Further, the seizures of letters, which were written to threaten Christian Missionaries, posters depicting about world Islamisation, data of telephone calls collected from the accused and the involvement of all the accused in different crimes was discussed by the learned Sessions Judge.

10. Learned Sessions Judge further found that though all the accused were not involved in all the cases, however the appellants/accused were involved in different cases as part of Deendar Anjuman group, which were listed as follows: i) Cr.No.171/2000, Pig Blast; ii) Tiruvur Bank Dacoity/ SC No.426 of 2001 in Cr.No.8/2000; iii) Blast in Ladies Club, Machilipatnam SC No.422/2001 in Cr.No.94/2000; iv) Blast in Kodanda Ramaswamy Temple, SC No.423 of 2001; v) Vain attempt to Blast the St.Jude's Church, Vikarabad (SC 93/2001, Cr.NO.207/2000); vi) Attempt to blast the CSI Church, Medak, SC 446/2001 Cr.No.38/2000; vii) Blast in Juwett Memorial Baptist Church, Ongole, SC No.563/2001 Cr.No.80/2000; viii) Blast in Mother Vennani Catholic Church Kadakatla, Tadepalligudem; ix) Warning letter addressed to K.A.Paul International Training Centre; x) Blast in St.Anns Church, Cr.No.77/2000 P.S.Wadi; xi) Maruthi Van Blast in Bangalore Cr.NO.87/2000 P.S.Hubli; xii) Blast in Markaz Mosque, Guntur, S.C.No.564/2001, Cr.No.190/2000; xiii) Destruction of public and private properties after the blast of Markaz Mosque in Guntur, cr.Nos.191/2000 to 193/2000; xiv) recoveries explosives from A15 Syed Mastan S.C.No.91/2001 Cr.No.176/2000; xv) Recovery of Explosives from Sk.Iqbal Ahmed (A8), Mohd.Nazeemuddin (A9), Shaik Khaja (A.11) & Humayun (A.10) SC No.94 of 2001; xvi) Recovery of Mohd.Haneef (A14) SC No.92/2001 Cr.NO.98/2000 of PS Nuiveedu; xvii) Recoveries from S.M.Ibrahim (A17), Cr.No.113/2000, PS J.J.Nagar, Bangalore; xviii) Recoveries from Mullah Sab (A.43) & A.R.Seth (A.45) cr.No.290/2000, Magadi Road P.S.

11. All the above narrated cases are subject matters of different crimes and sessions cases were pending before different Sessions Courts in the entire districts of erstwhile State of Andhra Pradesh at the time of the Judgement in the present case. Since the accused, who are complicit in those cases were being tried for the said offences in those cases, the narration and details of all the cases would not be necessary for adjudication of these appeals.

12. Learned Sessions Judge has found that since the accused were being tried individually, who are all accused in those particular cases, the learned Sessions Judge did not give any finding regarding involvement in those cases as any finding would amount to double jeopardy and such findings are barred under Section 300 of Cr.P.C and Article 20 of the Constitution of India.

13. Learned counsel appearing for the appellants/accused submits that A41, 43, 47, 44 and 50 have already expired.

14. Further, learned counsel for the appellants would submit that all the accused are already facing life sentence/death sentences in different cases in Bangalore and other parts of India. He further submits that since all the accused are separately tried and there was no necessity of conducting any trial in the present case since their complicity of criminal conspiracy would be decided in the said cases. For the said reason conviction for criminal conspiracy has to be set aside.

15. Learned Assistant Public Prosecutor would submit that learned Sessions Judge has convicted on the basis of their membership in Deendar Anjuman organization. They have committed different terrorist acts, which are subject matters of session's case pending against them in different Courts. However, all these appellants are part of Deendar Anjuman organization carrying out those terrorist acts, they were in fact tried by the Special Court and rightly convicted under Section 120-B of IPC for criminal conspiracy.

16. Learned Assistant Public Prosecutor also relied upon the judgment of Hon'ble Supreme Court in the cases; i) R.Dineshkumar @ Deena v. State, rep. by Inspector of Police [Criminal Appeal No.454 of 2015]; and ii) State (N.C.T of Delhi) v. Navjot Sandhu [AIR 2005 SC 3820] to support his contention that the appellants can be convicted for criminal conspiracy, irrespective of their individual involvement in several cases. However, the application filed to enhance the sentence was not pressed for the reason of the appellants who are surviving are undergoing life sentence in different jails.

17. Learned Sessions Judge had in fact not discussed about any cases individually as they are being tried before different courts, however concluded that all the appellants herein have executed those acts. The learned Sessions Judge has rightly confined to discussing whether an offence under Section 120-B of IPC is made out or not.

18. The criminal conspiracy of these appellants are apparent from their criminal acts in several cases and all of them belonging to Deendar Anjuman organization of which A1 was the head. The accused have indulged in acquiring explosive devises, fabricating and manufacturing Improvised Explosive Devices and placing them at several places of worship. The evidence also concludes their inter se communication amongst these members to execute the criminal acts. Several seizures, explosive materials which occurred were all considered by the Sessions Judge to arrive at a conclusion. These appellants had in fact carried out those acts in criminal conspiracy to commit such acts.

19. For the aforesaid reasons, since the learned Sessions Judge has not given any finding in individual cases which are subject matters before the concerned Courts and confined its finding to the aspect of criminal conspiracy to commit such criminal acts, I see no reason to interfere with the well reasoned judgment of the Sessions Judge convicting the appellants for the offence under Section 120B of IPC and sentencing them to rigorous imprisonment for a period of six months.

20. The Criminal Appeal No.1105 of 2006 is filed by the State aggrieved by the acquittal of the accused persons for the offences charged other than Section 120-B IPC. The learned Sessions Judge, as stated above, did not give any finding with regard to the other offences apart from Section 120-B of IPC, since they are subject matters of cases in different appeals. For the said reason, when there is no finding regarding the other offences, the question of appeal against acquittal does not arise, as there is no acquittal recorded. For the said reasons, Criminal Appeal No.1105 of 2006 filed by the State fails and accordingly dismissed.

20. Accordingly, all the criminal appeals are dismissed. As a sequel thereto, miscellaneous applications, if any, shall stand closed.