

PETITIONER:
JOGINDER SINGH

Vs.

RESPONDENT:
STATE (DELHI ADMINISTRATION)

DATE OF JUDGMENT 19/04/1994

BENCH:
AGRAWAL, S.C. (J)
BENCH:
AGRAWAL, S.C. (J)
ANAND, A.S. (J)

CITATION:
1994 SCC (4) 724

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. This appeal is directed against the judgment of the Designated Court, Delhi, whereby the appellant who was charged with having committed an offence punishable under Section 5 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (for short TADA) has been convicted of the said offence and has been sentenced to rigorous imprisonment for a period of five years and to pay a fine of Rs 1000 and in default of payment of fine to undergo rigorous imprisonment for another two months. The learned counsel for the appellant has submitted that the conviction of the appellant cannot be sustained in view of the decision of this Court in Kartar Singh v. State of Punjab'. In the said case R.M. Sahai, J. has construed Section 5 of TADA and has expressed his view in the following terms : (SCC pp. 766-67, para 460)

"(2) Even though no opinion has been expressed by Brother Pandian, J., on Section 51 of the opinion that the provisions of this section can be invoked only when the prosecution is able to establish that there was some material on record to show that the arms and ammunition mentioned in the section were likely to be used for any terrorist or disruptive activity or that they had been used as such."

It appears that the other four Judges who constituted the Bench which decided the said case, have not expressed any opinion on the construction of Section 5 of TADA. The question is whether the aforesaid view of Sahai, J. on interpretation of Section 5 of TADA is to be regarded as the judgment of the Constitution Bench; if not, what is the true ambit and scope of Section 5 TADA. Having regard to the importance of the question which arises in a large number of cases, we are of the view that it would be appropriate that this question is considered by a three-Judge Bench of this

Court.

2.The matter may be placed before Hon'ble the Chief Justice of India for suitable directions in this regard.

3.Liberty is given to the parties to mention for a date of hearing of the appeal.

(1994) 3 SCC 569: JT 1994 (2) SC 423

726

JUDIS