

Babu @ Manoj Vs. the State

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Court : Delhi

Decided On : Oct-28-2013

Judge : S. P. Garg

Appellant : Babu @ Manoj

Respondent : The State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI DECIDED ON :

28. h October, 2013 + CRL.A. 294/2002 BABU @ MANOJ Appellant Through : Mr.Harish Khanna, Advocate. VERSUS THE STATE Respondent Through : Mr.Lovkesh Sawhney, APP. S.P.GARG, J.

(ORAL) 1. Ajay Singh, Babu @ Manoj (the appellant), Samjay Samual and Sanjeev Kumar Singh were arrested in case FIR No.96/1999 and 97/1990 registered at Police Station Delhi Cantt and sent for trial for committing offences under Sections 394/397/308/34 IPC and 5 TADA (P) Act. Allegations against them were that on 06.04.1990 at 10.40 A.M. at Syndicate Bank, Air Force Station Palam, they hatched conspiracy to rob the bank. Pursuant to the said conspiracy, Ajay Singh, who was armed with a pistol fired at Meghna Nand, guard on duty at the gate. The bullet pierced through his wrist and came out of in between thumb and index finger. Ajay Singh again pointed the fire arm towards head of the guard and warned him not to raise hue and cry. Accused persons threatened everybody

present in the bank. Meghna Nand grappled with Ajay Singh and tried to press the trigger of his gun but could not do so as his right thumb was injured in the shot fired him. Ajay Singh fired more shots towards the guard but these did not hit him and passed over his head. When he did not surrender Ajay hit him on his head with the butt of his revolver. Meghna Nand continued to grapple with Ajay Singh and with the assistance of Dharminder and other staff, was successful to overpower him. Ajay was accompanied by his two more accomplices i.e. Babu @ Manoj (the appellant) and Samjay Samual who were armed with weapons. When they found that guard Meghna Nand was able to overpower Ajay, they fled the spot. However, after some chase by Air Force officers present in the bank, they were apprehended and weapons were recovered from their possession. Statement of witnesses conversant with facts were recorded during investigation. Sanjeev Kumar Singh was apprehended in pursuance of disclosure statement of Ajay, who informed that he had taken the mouser (revolver) from him. After completion of investigation all of them were charge-sheeted for committing offences as mentioned previously. They were duly charged and brought to trial. The prosecution examined 17 witnesses. After appreciating the evidence and considering the rival contentions of the parties, the Trial Court by the impugned judgment convicted Ajay Singh, Babu @ Manoj, and Samjay Samual in Sessions Case No.33/2001 for offences under Sections 394/397/308/34 IPC and 25 Arms Act. They were acquitted under Section 5 TADA (P) Act. Sanjeev Kumar Singh was acquitted of all the charges. It is apt to note that the State did not challenge Sanjeev Kumar Singhs acquittal.

2. During the course of arguments, appellants counsel on instructions stated at Bar that Babu @ Manoj has opted not to challenge his conviction recorded by the Trial Court and accepts it voluntarily. He, however, prayed to modify the sentence order as the appellant has already remained in custody for more than seven years in this case.

3. Since the appellant has given up challenge to the conviction and accepts it voluntarily in the presence of overwhelming evidence, the findings of the Trial Court on conviction are affirmed. The offence committed by the appellant with his associates is grave and serious as they all while armed with weapons entered the

bank in an attempt to rob it during day-time. To execute their plan, Ajay Singh fired at the guard who was present on duty at the gate to protect the interest of the bank. He was injured for no fault of his. At the same time it appears that the main culprit is Ajay Singh, who is not one of the appellants before the court. Babut @ Manoj did not fire at all at any staff member of the bank to execute the plan or to assist his accomplice Ajay Singh. No role whatsoever was attributed to him except that he was present with Ajay Singh and was apprehended after some chase with the weapon. Nominal roll dated 10.12.2008 reveals that he has remained in custody for six years, eleven months and nineteen days as on 02.01.2003. He also earned remission for two months and seventeen days. His jail conduct was satisfactory and was not involved in any other criminal case. The incident pertains to the year 1990. He has suffered the agony of trial/appeal for about 22 years. After his enlargement on bail on 16.12.2002, his involvement in any such activity did not surface. The sentence order of the appellant is modified and the appellant is sentenced to undergo the period already spent by him in this case with fine of Rs.5,000/- and failing to pay the fine, he shall suffer simple imprisonment for two months. The appellant is directed to deposit fine Rs.5,000/- in the Trial Court within 15 days (if not deposited earlier).

4. The appeal stands disposed of in the above terms. A copy of the order be sent to Jail Superintendent, Tihar Jail for information. Trial Court record along with a copy of this order be sent back forthwith. (S.P.GARG) JUDGE October 28, 2013
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