

Dalip Kumar and Others Vs. State (Delhi Administration)

Dalip Kumar and Others Vs. State (Delhi Administration)

SooperKanoon Citation : sooperkanoon.com/686214

Court : Delhi

Decided On : Jul-28-1994

Reported in : 1995CriLJ2769

Judge : Dalveer Bhandari, J.

Acts : Indian Penal Code (IPC) - Sections 399 and 402; Criminal Procedure Code - Sections 397, 401 and 482; Arms Act - Sections 25; Tada - Sections 5

Appeal No. : Criminal Revision No. 28 of 1994

Appellant : Dalip Kumar and Others

Respondent : State (Delhi Administration)

Advocate for Def. : Mr. R.D. Jolly, Adv.

Advocate for Pet/Ap. : R.N. Sharma, Adv

Judgement :

ORDER

1. The petitioners have filed this revision petition under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, against order dated 21st of January, 1994, passed by the Additional Sessions Judge, Delhi, in which a charge against the petitioners was framed under Sections 399/402, Indian Penal Code.

2. Brief facts necessary to dispose of this application are reproduced as under :-

3. That on 8th August, 1990 at about 7 p.m., the Police received information from a secret informer that at about 7.30 p.m. a Maruti Van No. DNJ-0525 occupied by 5 persons will come to Loha Mandi, Naraina, Delhi, for the purpose of committing dacoity. On the basis of the secret information, a raiding party was prepared. At about 7.30 p.m. on 8-8-1990, the Maruti Van was stopped at Naraina Flyover and the Police succeeded in apprehending four accused and the fifth succeeded in escaping. It is the further case of the prosecution that on personal search of the accused persons, a katta, buttondar knives and a dagger were recovered from them. After completion of investigation, the petitioners along with two others, were challaned under Section 25/54/59, Arms Act, and Section 399/402 of the Indian Penal Code, while accused Chander Shekhar was separately challaned under Section 5 of the Terrorist and Disruptive Activities Act (TADA).

4. The present petition is preferred on behalf of (1) Dalip Kumar alias Raju, (2) Biresh Sharma and (3) Chander Shekhar Sharma.

5. Learned counsel appearing for the petitioners submitted that charge under Sections 399/402 of the Indian Penal Code, framed against the petitioner has been erroneously framed because the ingredients of the offence are not made out.

6. Section 399 of the Indian Penal Code reads as under :-

'399. Making preparation to commit dacoity. - Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.'

7. The preparation for committing dacoity is really the main ingredient of this offence. In the instant case, a secret information was received by the Police in which the details of the vehicle were given, including the number of Maruti Van, and the time when it was likely to come to Loha Mandi, Naraina, Delhi. Even the number of persons who have made the preparation to commit dacoity has also been indicated.

8. In pursuance of the information, the said Maruti Van was stopped at Naraina Flyover and the Police was successful in apprehending four out of the five

accused. One, of course, managed to escape. From their personal search, deadly weapons such as katta, buttondar knives and a dagger were recovered. In these circumstances, all the necessary ingredients of Section 399 are made out.

9. In this view of the matter, I do not find any infirmity in the order dated 21st January, 1994 passed by learned Additional Sessions Judge. The revision petition is devoid of any merit and is hereby dismissed.

10. Revision dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com