

Nanak Chand Vs. State

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Court : Delhi

Decided On : Nov-07-1990

Reported in : 1992CriLJ55; 1991RLR62

Judge : Jaspal Singh, J.

Acts : [Arms Act, 1959](#) - Sections 25

Appeal No. : Criminal Revision Appeal No. 169 of 1981

Appellant : Nanak Chand

Respondent : State

Judgement :

Jaspal Singh, J.

(1) Jenkins in his Communication in the Court- room =The Lawyer as an Educator (1984) L J. 377 writes that an advocate is a teacher of sorts, and instructs the Judge as to what the underlying facts and circumstances are, so that an informed choice can be made. I have waited and waited today for these teachers of sorts and as none has turned up, I am exercising the other option-the option to roll up my sleeves and to dig into the case.

(2) The case needs no big canvas. The petitioner was convicted by a Metropolitan Magistrate u/S. 25 of the Arms Act for being in possession of a Kirpan in

contravention of a Notification which was placed on the record. Aggrieved, he knocked at the doors of the Additional Sessions Judge, but his appeal failed. Hence this revision petition.

(3) It is the Notification which holds the key for it was on its basis that the prosecution was launched. And, what does it prohibit It prohibits acquisition, possession and carrying of 'spring-actuated knives, guardian knives, buttandar knives or other knives which open or close...'

(4) What is to be noticed is, and it is this which is most important, that it speaks nowhere of a Kirpan and it needs no discerning eyes to see that a Kirpan is as distinguishable from a knife as cheese is from chalk. And as the prosecution relies on a Notification relating to knives and not a Kirpan, the entire edifice raised by the prosecution crumbles to the ground. I have only to pronounce an orison funebre.

(5) However, in fairness to the prosecution, I have also examined the case on the assumption that the Notification applies to a Kirpan also.

(6) The recovery is proved by three police officials who have differed on who snatched the Kirpan from the petitioner and at what time. The recovery was from a street with houses on both sides and shops nearby. And, yet no witness from the public has been produced. Not that in every case the police officials are to be treated as unworthy of reliance but their failure to join witnesses from the public especially when they are available at their elbow, may, as in the present case, cast doubt. They have again churned out a stereotyped version. Its rejection needs no Napoleon on the Bridge at Arcola.

(7) The revision petition is accepted. The judgment of conviction and the order of sentence stand set aside.