

AHMAD UMAR SAEED SHEIKH

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v.

STATE OF UTTAR PRADESH

NOVEMBER 21, 1996

[M.K. MUKHERJEE AND S.P. KURDUKAR, JJ.]

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*Terrorists and Disruptive Activities (Prevention) Act, 1987 :*

*S.20A(1)—F.I.R.—Prayer for quashing of for non-approval of District Superintendent of Police—F.I.R. recorded on complaint of Sub-Inspector of Police under ss.332, 307 and 427 I.P.C., s.7 of Criminal Law Amendment Act and ss.3 and 4 of TADA without prior approval of District Superintendent of Police—Held, F.I.R. was recorded not only for offences under TADA but also for offences under I.P.C. for which the police officer concerned was competent to lodge the F.I.R. without such approval—Absence of approval of District Superintendent of Police u/s. 20A(1) at that stage only disentitled the investigating agency to investigate into the offences relating to TADA but it had a statutory right to investigate into other offences alleged in F.I.R.—Besides, after F.I.R. was lodged, approval was sought from and accorded by District Superintendent of Police to add ss.3 and 4 of TADA—On completion of investigation charge-sheet submitted with sanction of authority concerned as required u/s 20A(2)—Charges not liable to be quashed.*

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 680 of 1996.

From the Judgment and Order dated 11.4.96 of the Designated Court at Meerut in CrI. Case No. 2/95 arising out of FIR No. 245/94 dated 31.10.94.

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G. Ramaswamy, K.M.M. Khan, W.A. Ansari and Shuyab Arshi for Ms. Sangeeta Kumar for the Appellant.

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T.N. Singh for A.S. Pundir for the Respondent.

The following Order of the Court was delivered :

The instant appeal has been filed by the appellant for quashing the charges that have been framed against him by the Designated Judge,

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A Meerut under Sections 307, 332 and 427 IPC, Section 14 of the Foreigners Act and Sections 3 and 4 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 ('TADA' for short).

B Mr. Ramaswamy, the learned counsel for the appellant, submitted that the entire proceedings initiated against the appellant, including the charges, were liable to be quashed as the First Information Report, which ultimately culminated in the impugned proceedings against the appellant, was lodged in utter breach of Section 20A (1) of TADA, which provides that no information about the commission of an offence under TADA shall be recorded by the police without the prior approval of the District Superintendent of Police. To bring home his contention he has drawn our attention to the F.I.R. that was recorded on the complaint of a Sub Inspector of Police for offences punishable under Sections 332, 307 and 427 IPC, 7 of the Criminal Law Amendment Act and Sections 3 and 4 of TADA.

D After having given our anxious consideration to the above contention of Mr. Ramaswamy we are unable to accept the same. It is of course true that when the above F.I.R. was recorded no prior approval of the Superintendent of Police was obtained as required under Section 20 A (1) but, as noticed above, the F.I.R. was recorded not only for offences under TADA but also for offences under the Indian Penal Code for commission of which the concerned police officer was competent to lodge an F.I.R. without such approval. The absence of approval of District Superintendent of Police as required under Section 20 A(1) of TADA at that stage only disentitled the investigating agency to investigate into the offences relating to TADA but it had a statutory right to investigate into the other offences alleged in the F.I.R. If the F.I.R. was lodged only for commission of offence under TADA we might have persuaded ourselves to accept the contention of Mr. Ramaswamy, but there being allegation of other offences therein it cannot be said that the F.I.R. so far as it sought investigation of these offences was non-est.

G There are certain other facts which required to be noticed at this stage. After the F.I.R. was lodged, the investigating agency made a prayer before the Superintendent of Police, Ghaziabad on November 21, 1994 seeking his approval to add Sections 3 and 4 of TADA on the ground that H during investigation the involvement of the appellant in commission of such

offences was revealed. The approval sought for was granted and thereafter on completion of investigation chargesheet was submitted with the sanction of the concerned authority as required under Section 20A(2) of TADA. Since the above steps taken by the Investigating Agency are in conformity with the provisions of both sub-sections (1) & (2) of Section 20 A of TADA the impugned charges are not liable to be quashed on the grounds agitated by Mr. Ramaswamy. As no other point was raised in support of this appeal we dismiss the same.

R.P.

Appeal dismissed.