



2026:AHC:69007

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 5278 of 2025

Juvenile X

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Gaurav Tiwari, Sanjay Chaturvedi
Counsel for Opposite Party(s) : G.A., Gaurav Singh Tomar, Inder Pal
Singh Tomar

Court No. - 84

HON'BLE JAI PRAKASH TIWARI, J.

1. Heard learned counsel for the revisionist, learned counsel for the opposite party no. 2, as well as Sri Ashutosh Srivastava, learned A.G.A. for the State and perused the entire material available on record.

2. This criminal revision has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 for setting aside the judgment and order dated 16.07.2024 passed by learned Additional District and Sessions Judge/Special Judge (POCSO), Court No. 2, Ghaziabad in Criminal Case No. 65 of 2018 (State vs. Anash), and order dated 20.03.2018 passed by the learned Juvenile Justice Board, Ghaziabad in Case No. 76 of 2017 (State vs. Anash), arising out of Case Crime No. 134 of 2017, under Sections 452, 302, 506 IPC, Police Station Shahibabad, District Ghaziabad.

3. Learned counsel for the revisionist submits that the present criminal revision arises out of an FIR dated 26.01.2017 lodged by opposite party no. 2 against the revisionist and others, registered as Case Crime No. 134 of 2017 under Sections 452, 302, and 506 I.P.C. at Police Station Sahibabad, District Ghaziabad. As per the prosecution case, on 21.01.2017 at about 9:00 P.M., the accused persons allegedly abused certain women and assaulted the complainant's father when he objected. Thereafter, in the intervening night of 25/26.01.2017 at about 1:30 A.M.,

the said person was allegedly attacked with a knife while sleeping, resulting in his death.

4. It is submitted that the revisionist was declared a juvenile by the Juvenile Justice Board, Ghaziabad, vide order dated 26.09.2017 on the basis of the medical report of the Chief Medical Officer dated 03.06.2017, which assessed his age to be **about 16 years** on that date. Accordingly, on the date of the incident, the revisionist was approximately 15 years and 6 months old and, therefore, below 16 years of age. Learned counsel contends that the District Probation Officer's report dated 21.11.2017 does not disclose any adverse material or criminal antecedents against the revisionist, except a vague apprehension regarding bad company.

5. Despite this, the Juvenile Justice Board, by order dated 20.03.2018, referred the matter to the Children's Court for trial of the revisionist as an adult. It is argued that such referral is contrary to Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which applies only to children aged 16 years or above on the date of commission of the offence. Since the revisionist was below 16 years, the preliminary assessment and mental status examination were without jurisdiction and contrary to law. It is further submitted that the learned trial court wrongly rejected the application dated 17.01.2023 and arbitrarily closed the opportunity to cross-examine Dr. Saket Nath Tiwari, thereby causing prejudice to the revisionist.

6. Learned counsel further submits that the mental status examination report is neither conclusive nor sufficient to justify trial of the revisionist as an adult. Since Section 15 itself was inapplicable, the consequential provisions of Section 18 of the Act also could not have been invoked. The impugned orders are stated to be based on conjectures, unsupported by evidence, and contrary to the scheme and provisions of the Juvenile Justice Act. It is lastly submitted that the revisionist has already undergone the maximum period of three years contemplated under the Act, and therefore continuation of the proceedings is wholly unjustified. Accordingly, the impugned orders passed by the Juvenile Justice Board and the learned trial court are liable to be set aside.

7. In support of his submissions, learned counsel for the revisionist has placed reliance upon the judgment of High Court of Delhi at New Delhi

in the case of ***Raju vs. State (GNCT of Delhi)*** reported in ***2025 SCC OnLine Del 6361***.

8. Learned counsel for the opposite party no. 2 and learned A.G.A. has vehemently opposed the submissions made by the learned counsel for the revisionist and has submitted that the judgment and order of the courts concerned are in accordance with law.

9. Having heard the learned counsel for the parties and perused the record.

The core of this revision rests on the age of the accused. A report from the Chief Medical Officer dated 03.06.2017, determined the revisionist was **about 16 years old** at that time. Consequently, the Juvenile Justice Board, Ghaziabad determined the age of child in conflict with law **about 16 years** declared him a juvenile on 26.09.2017. Crucially, the learned counsel for the revisionist argues that on the actual date of the incident 26.01.2017, the revisionist was approximately 15 years and 6 months old.

10. The learned counsel for the revisionist submits that the revisionist has been wrongly assessed under Section 15 of the JJ Act. This provision applies only when a child in conflict with law has completed the 16 years of age or above.

11. Here, it would be relevant to go through the opening line of Section 15, which clearly states:

"In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen year". This makes it clear that the child must have completed 16 years of age."

In the present case, the age of the revisionist has been recorded as "about 16 years." As per ***Black's Law Dictionary-***

"The word "about" is generally construed to mean "approximately", "nearly", or "close to" a specific amount, time, or quantity"

The word "about" is generally understood to mean something that is not exact but approximate. Therefore, it indicates that the revisionist has not yet completed 16 years of age.

12. The Court, while adjudicating the present judgment, has dealt with the

following two issues:

Firstly, the issue that arises for consideration is whether the terms “completed” and “about” are synonymous with each other.

The words “**completion**” and “**about**” are not synonymous in legal interpretation, as each conveys a distinct meaning and legal effect. The term “completion” denotes the finalization, fulfillment, or full execution of an act or obligation. In contrast, the word “about” is ordinarily used to indicate approximation, relation, or reference to a subject matter, without implying finality or conclusiveness. Under principles of statutory and contractual interpretation, courts generally assign words their ordinary and contextual meanings unless expressly defined otherwise. Therefore, treating “completion” and “about” as synonymous would be legally unsustainable, as such interpretation may alter the objective of the act and create ambiguity in the construction of the statute.

The JJ Board failed to properly consider the use of the word “**about 16 years**” and incorrectly treated the revisionist as having completed 16 years, thereby wrongly declaring him as an adult. On the bare perusal of Section 15 of the JJ Act, the revisionist was not eligible for assessment under this provision. Section 15 of the JJ Act, 2015 reads as under:-

Section 15. Preliminary assessment into heinous offences by Board.

(1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence and may pass an order in accordance with the provisions of sub-section (3) of section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

Explanation. For the purposes of this section, it is clarified that preliminary assessment not a trial but is to assess the capacity of such child to commit and understand the consequence of the alleged offence.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101:

Provided further that the assessment under this section shall be completed within the period specified in section 14.

Secondly, the issue that arises for consideration is whether a child in conflict with law, who has neither attained nor completed the age of 16 years, can be subjected to an assessment under Section 15 of the Juvenile Justice Act, 2015.

There is no settled legal principle that specifically deals with the interpretation of the term "**about**," which is commonly used by courts in determining age. When the exact age of the child is not known and there is no documentary evidence available, a medical examination is conducted to determine the age as per mandate of section 94(2)(iii) of the JJ Act, 2015. However, such medical opinion does not provide an exact age and is only an estimate on the basis of any ossification test or any other latest medical age determination test.

13. Therefore, while considering the medical report given by the CMO, the JJ Board should interpret it in a manner that benefits the child and serves the interests of justice. The Board should not simply adopt the age mentioned in the report without proper consideration and application of mind.

14. Further, the JJ Board ought to have given the benefit of a margin of error in age determination, as recognized by judicial precedents.

Reference may be made to the judgment of the Hon'ble Apex Court in the case of **Vinod Katara Vs. State of M.P.**, reported in **2022 SCC Online SC 1204**, wherein, the Hon'ble Apex Court held:

"60. The bone ossification test is not an exact science that can provide us with the exact age of the person. As discussed above, the individual

characteristics such as the growth rate of bones and skeletal structures can affect the accuracy of this method. This Court has observed in Ram Suresh Singh v. Prabhat Singh, (2009) 6 SCC 681: (2010) 2 SCC (Cri) 1194, and Jyoti Prakash Rai v. State of Bihar. (2008) 15 SCC 223: (2009) 3 SCC (Cri) 796, that the ossification test is not conclusive for age determination because it does not reveal the exact age of the person, but the radiological examination leaves a margin of two years on either side of the age range as prescribed by the test irrespective of whether the ossification text of multiple joints is conducted. The courts in India have accepted the fact that after the age of thirty years the ossification test cannot be relied upon for age determination. It is trite that the standard of proof for the determination of age is the degree of probability and not proof beyond reasonable doubt".

15. In view of the above, the revisionist should have been given the benefit of this margin, and the assessment under Section 15 of the JJ Act was not justified.

16. Although, the order regarding the determination of age has not been challenged in this revision. Only the preliminary assessment order has been challenged. The Board conducted a preliminary assessment under Section 15 of the Act on the basis that the child in conflict with law was approximately 16 years of age, whereas under Section 15 of the J.J. Act, a preliminary assessment requires the child's age to be 16 years or more as of the date of incident.

17. From the above discussion and in the considered opinion of this Court, "**about**" could not be construed as "**completion**" provided under Section 15 of the J.J. Act, 2015.

18. In view of the aforesaid discussion, the impugned order dated 20.03.2018 passed by the Juvenile Justice Board, Ghaziabad and the order dated 16.07.2024 passed by the learned trial court cannot be sustained in the eyes of law.

19. Accordingly, the criminal revision is **allowed**.

20. The impugned judgment and order dated 16.07.2024 passed by the learned Additional District and Sessions Judge/Special Judge (POCSO), Court No. 2, Ghaziabad and the order dated 20.03.2018 passed by the

Juvenile Justice Board, Ghaziabad are hereby **set aside**.

21. It is directed that the case of the revisionist shall be dealt with strictly in accordance with the provisions applicable to a juvenile under the Juvenile Justice (Care and Protection of Children) Act, 2015.

22. The matter is remanded back to the Juvenile Justice Board, Ghaziabad to proceed afresh in accordance with law.

23. Before parting with the judgment, I would like to express my appreciation to my Research Associate, **Ms. Divya Pandey** for her thorough research and assistance to the Court in the instant case.

(Jai Prakash Tiwari,J.)

April 1, 2026
Brijesh