

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA No. D-746-DB of 2002 (O&M)

Date of decision : 09.03.2015

Dalbir

.....Appellant

Versus

State of Haryana

....Respondent

**CORAM:- HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. K.S. Malik, Advocate for the appellant.

Mr. Vivek Saini, AAG, Haryana.

HEMANT GUPTA, J.

The present appeal is preferred against the order of conviction dated 08.07.2002 convicting the appellant – Dalbir for an offence under Section 302 read with Section 34 of Indian Penal Code (for short 'IPC'). He was sentenced to undergo life imprisonment vide separate order dated 11.07.2002. In the order of sentence, the appellant has pleaded that he was around 15 years of age at the time of occurrence and was juvenile. It was found by the Learned trial Court that as per his own version his date of birth is 20.09.1983, therefore, on the date of conviction he is around 19 years of age. Learned trial Court also noticed that on 16.02.2001, the Principal Magistrate, Juvenile Court opined that the appellant was not juvenile at the time of alleged occurrence.

In an appeal against the said judgment, this Court passed the order on 30.07.2014 directing Juvenile Justice Board to submit report; whether the appellant was juvenile at the time when the crime was committed. The Juvenile Justice Board has since submitted its report dated 09.10.2014 to the effect that the appellant was juvenile at the time of occurrence. It is also come on record that the appellant has undergone more than 4 years of actual imprisonment.

In terms of Section 15 of Juvenile Justice (Care and Protection of Children) Act, 2000, one of the order which can be passed by the Board is to direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years and also make an order directing the juvenile to be sent to a special home for a period of three years.

The learned counsel for the appellant argued that the appellant has undergone sentence for the period of more than 4 years. Since the appellant has undergone more sentence than what is contemplated under the Act, therefore, the appellant be set at liberty forthwith.

Since, the appellant has undergone imprisonment for a period than the period, which could be directed by the Juvenile Justice Board, therefore, we deem it appropriate that no useful purpose would be served by remitting the matter to the Board for fresh inquiry and consideration.

Therefore, we accept the present appeal and modify the sentence imposed by the trial Court. The only order that can be passed by the Board is that a juvenile can be kept in Special Home for a period of three years, but since the appellant has already undergone three years, therefore, he shall be set at liberty if not wanted in any other case.

(Hemant Gupta)
Judge

(Lisa Gill)
Judge

March 09, 2015
rts