

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.87 of 2016

Arising Out of PS.Case No. -73 Year- 2008 Thana –Bihpur District- BHAGALPUR

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Rohit Kunwar @ Rinku Kunwar, Son of Shyam Kunwar, Resident of Village -
Sonbarsa, Police Station - Bihpur, District - Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar
2. District Magistrate, Bhagalpur.
3. Senior Superintendent of Police, Bhagalpur.
4. Superintendent of Police, Naugachia.
5. Officer-in-Charge, Bihpur Police Station, Police Station - Bihpur, District -
Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vikram Singh, Advocate.

For the Respondents : Mr. Uma Shankar, G.P. 04.

Mr. Karandeep Kumar, A.C. to G.P. 04.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 24-02-2016

Heard learned counsel for the petitioner
and the State.

2. The petitioner has invoked Criminal Writ
Jurisdiction to set aside an order dated 28th of June,
2010 passed by Jail Lok Adalat, whereby the petitioner
on the basis of his confession has been convicted for an
offence under Section 25 1B(a) and 26 of the Arms Act,
1959.

3. The grievance of the petitioner is that he
is in fact a juvenile, which is evident from the fact that a



plea was raised before the Court on 20th of May, 2008 and the Court was pleased to seek the opinion of the Medical Board regarding the age of the present petitioner but without awaiting the report, the Court has proceeded with the trial and ultimately, the matter was considered by the Jail Lok Adalat wherein confession of the petitioner was recorded for the offence under Section 25 1B(a) and 26 of the Arms Act, 1959 and that petitioner was imposed punishment to undergo Rigorous Imprisonment for two years for the offence under Section 25 1B(a) and for one year for the offence under Section 26 of the Arms Act, 1959. Both the sentences were ordered to be run concurrently. It is admitted that petitioner has since completed the sentence and is not in custody in the trial arising out of First Information Report in question.

4. The argument of learned counsel for the petitioner is two fold. Firstly, that once the petitioner has raised a plea that he is a juvenile, therefore, in terms of Section 7A of the Juvenile Justice (Care and Protection of Children) Act, 2000, the Court was duty bound to make an inquiry in respect of age of the petitioner. Since no inquiry was made, therefore, inquiry is required to be



made at this stage to determine the age of the petitioner on the date of commission of offence and grant benefit, if permissible according to law. It is also contended that Section 22C of the Legal Services Authority Act, 1987 deals with cognizance of cases by permanent Lok Adalat but it does not have any jurisdiction relating to an offence not compoundable under any law. Therefore, the offences under Section 25 1B(a) or 26 of the Arms Act, 1959 cannot be confessed by the petitioner before the Jail Lok Adalat.

5. I have heard learned counsel for the parties and find no merit in the present petition. Section 7A of the Juvenile Justice (Care and Protection of Children) Act, 2000 permits a question to be raised even after the decision of the Court but in the present case, the petitioner has completed his sentence. Therefore, even after the decision of the Court, and completion of the sentence, the petitioner cannot be permitted to raise a concluded question of his sentence on the plea that he was juvenile at the time of occurrence. The petitioner never disputed his age before making confession before the Jail Lok Adalat on 28th June, 2010. Having completed the sentence on the basis of confession and

that too after more than five years of the decision, the petitioner cannot be permitted to dispute the settled procedure.

6. Though Section 22C of the Legal Services Authority Act, 1987 contemplates the decision of the permanent Lok Adalat except the cases which are not compoundable, it has not explained the nature of Jail Lok Adalat. It appears to be a mechanism to entertain the plea of “plea bargaining” under Chapter XXI A of the Code of Criminal Procedure, 1973. Once the petitioner has settled before the Lok Adalat voluntarily and completed his sentence, he cannot be permitted to raise plea of juvenility that too after more than five years of the decision.

7. The writ application is, thus, dismissed.

(Hemant Gupta, J)

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