

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.166 of 2016

Arising out of P.S. Case No. 133 Year- 2014 Thana Bhorey District- GOPALGANJ

Vineeta Devi, wife of Radhey Shyam Sharma, resident of village- Dumar Narendra,
P.S.- Bhorey, District- Gopalganj

.... Petitioner

Versus

1. The State of Bihar
2. Tuntun Chauhan, son of Sheo Chauhan, resident of village- Dumar Narendra,
P.O.- Dumar, Via- Bhorey, P.S.- Bhorey, District- Gopalganj

.... Respondents

Appearance :

For the Petitioner/s : Mr. Ghulam Rabbani, Adv.

For the Respondent/s : Mrs. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 24-10-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The instant revision application has erroneously
been filed under Section 53 of the Juvenile Justice (Care and
Protection of Children) Act, 2000. The Juvenile Justice (Care and
Protection of Children) Act, 2000 has been repealed with effect from
15.1.2016 vide S.O. 110(E) dated 12th January, 2016. However,
notwithstanding such repeal, anything done or any action taken
under the said Act, has been saved and shall be deemed to have been
done or taken under the corresponding provisions of the Juvenile



Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015'). Under the Act of 2015, the revisional jurisdiction has been conferred upon the High Court under Section 102 of the Act of 2015. In view of the Act of 2015, the present application is treated to be an application filed under Section 102 of the Act of 2015.

3. This revision application is directed against the order dated 10.11.2015 passed by the learned Sessions Judge, Gopalganj, in Cr. Appeal No. 56 of 2015 arising out of Bhorey P.S. Case No. 133 of 2014 whereby the learned Sessions Judge has affirmed the order dated 7.2.2015 and 2.9.2015 passed by the learned Judicial Magistrate, 1st Class cum Principal Magistrate, Juvenile Justice Board, Gopalganj, by which the Juvenile Justice Board issued a letter to the Civil Surgeon, Gopalganj, for medical examination of the opposite party No. 2 and declared him juvenile in conflict with law on the basis of medical report respectively.

4. It has been contended by the learned counsel for the petitioner that the Juvenile Justice Board has committed an error by sending the accused Tuntun Chauhan before the Medical Board for determination of age without complying with the mandatory provisions of the Act of 2015 and Rules made thereunder. He has



contended that at the time of remand, the age of the accused was assessed by the Judicial Magistrate to be 20 years and, hence, the report of the Medical Board that the accused was aged between 17 to 18 years on the date of occurrence, is bad in law. He has submitted that for the same reason, the order of the appellate court is also bad in law.

5. On query made by the Court, learned counsel for the petitioner has submitted that the plea taken by the accused before the Juvenile Justice Board was that he does not possess any document to show his date of birth as he never attended any school and he had no certificate even from the Municipal Corporation in respect of the birth.

In case, the accused was an illiterate person and was having no other document and a plea has been taken on his behalf that he was a Juvenile in conflict with law, in the considered opinion of this Court, the Court had no other option but to send him before the Medical Board for determination of his age.

6. In that view of the matter, if the Board has relied upon the report of the Medical Board that the accused was a juvenile in conflict with law on the relevant date of occurrence, no fault can be found with such order.

7. Accordingly, the application being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	27.10.2016
Transmission Date	27.10.2016