

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.489 of 2015

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1. Chandra Shekhar Prasad, Son of Late Rajendra Prasad,
Resident of Village-Budhwara, P.S.-Govindpur, District-Nawadah.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Roshan Kumar, Son of Subodh Singh, Resident of village-
Budhwara, P.S.-Govindpur, District-Nawadah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Adv.
Mr. Rajesh Kumar, Adv.

For the State : Mr. Kumar Ranjeet Ranjan, APP

For the O.P. No. 2 : Mr. Manish Kumar No.-2, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 19-11-2016

The petitioner is aggrieved by an order, dated 18.04.2015, passed by learned Additional Sessions Judge-II, Nawadah, in Trial No. 22A of 12/44 of 2014, whereby, opposite party No. 2 has been declared juvenile in conflict with law under the Juvenile Justice (Care and Protection of Children) Act, 2000 (*hereinafter referred to as the "Act"*), in the present criminal revision application, filed under Section 53 of the Act.



2. Opposite party No. 2 claimed to be a juvenile on the basis of a matriculation certificate issued by the Bihar School Examination Board. His claim of juvenility was accepted by an order, dated 22.06.2012, passed by learned *Ad hoc* Additional Sessions Judge (F.T.C.-IV), Nawada. The petitioner, thereafter, preferred a revision application, under Section 53 of the Act, questioning the correctness of the said order, dated 22.06.2012, which gave rise to Cr. Revision No. 865 of 2012.

3. The petitioner claimed before this Court that there is difference of only 4 – 5 months between the date of birth recorded in respect of petitioner in the matriculation certificate and the one recorded in the matriculation certificate of the brother of opposite party No. 2. On the ground that this fact was sufficient to raise suspicion over the correctness of the claim of juvenility of opposite party No. 2, the said order, dated 22.06.2012, declaring opposite party No. 2 a juvenile, was challenged. This Court entertained the said contention and disposed of the said Cr. Revision No. 865 of 2012 by an order, dated 11.12.2012, with a direction to the learned court below to act in accordance with the provisions of Section 7A of the Act and decide the juvenility of opposite party No. 2.

4. It appears that, thereafter, the claim of opposite party No. 2 of his juvenility was rejected by an order, dated



16.12.2013, passed by learned *Ad hoc* Additional District Judge-IV, Nawada, in said Sessions Trial No. 22A of 2012. This time, the said order, dated 16.12.2013, came to be challenged by opposite party No. 2 by filing Cr. Revision No. 133 of 2014. This Court, noticing the fact that the learned court below had not conducted enquiry in terms of earlier order of this Court, dated 11.12.2012, passed in Cr. Revision No. 865 of 2012, set aside the said order, dated 16.12.2013, and again remitted the matter back to learned *Ad hoc* Additional District Judge-IV, Nawada, to decide the question of juvenility as per the direction given by this Court in Cr. Revision No. 865 of 2012. This time, after recording of the evidence and examining the records, learned Additional Sessions Judge-II, Nawada, *vide* his order, dated 18.04.2015, passed in Sessions Trial No. 22A of 2012, which is impugned in the present criminal revision application, has declared opposite party No. 2 to be a juvenile. The said order is being impugned by the informant in the present criminal revision application filed under Section 53 of the Act.

5. On perusal of the impugned order, I find that the case of opposite party No. 2 was referred to Medical Board for determination of his age, whereupon his age was determined as 19 – 20 years, as on 09.10.2013. Thus, since the occurrence had taken place on 29/30.09.2011, opposite party

No. 2 came to be declared as juvenile, as on the date of occurrence. It appears from the impugned order that the learned court below has taken into account the evidence adduced at the enquiry, held for the purpose of determination of age of opposite party No. 2 as on the date of occurrence.

6. Learned counsel, appearing on behalf of the petitioner, has attempted to assail the impugned order on the ground that the learned court below has again considered the entries made in the school register with respect to date of birth of opposite party No. 2, which was doubted by this Court in its earlier order, dated 11.12.2012, passed in Cr. Revision No. 865 of 2012.

7. I do not find any force in the submission advanced on behalf of the petitioner. Firstly, no procedural lapse has been shown on the part of the learned court below in determining the age of opposite party No. 2 as on the date of occurrence. Secondly, the entry of date of birth, made in the school register, is not the only evidence which had been taken into account by the learned court below for reaching the conclusion of juvenility of opposite party No. 2. Learned court below, on the basis of other evidence available on the record, adduced in course of enquiry including oral evidence coupled with the report of the Medical Board, has declared opposite party No. 2 as a juvenile as on the date of occurrence.

8. The said order, dated 18.04.2015, does not require any interference of this Court.

9. Finding no merit, this application is dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
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