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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 336 OF 2000

Laxman Kashiram Bansod,
Age: 27 years, Occu: Agril.,
R/o. Dhegaon, Taluka Kannad,
Dist. Aurangabad

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr D. R. Markad, Advocate holding for D. R. Adhav, Advocate for
applicant;
Mr. R. V. Dasalkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 31st March, 2016

ORAL ORDER :

The applicant herein was convicted for offences punishable under sections 279 and 304-A of the Indian Penal Code and sentenced to suffer simple imprisonment for one month and to pay fine of Rs.200/-, in default to suffer simple imprisonment for fifteen days and simple imprisonment for one year and to pay fine of Rs.500/-, in default to suffer simple imprisonment for one month, by the learned Judicial Magistrate First Class, Kannad by judgment and order dated 9th March, 1998, in Summary Criminal Case No.148 of 1991.

2. Aggrieved by the aforesaid judgment and order of conviction, the applicant preferred Criminal Appeal No.24 of 1998 before the Sessions

(2)

Court. Learned 4th Additional Sessions Judge, Aurangabad confirmed the conviction of the applicant for offence punishable under section 304-A of the Indian Penal Code, however, modified the sentence and directed the applicant to suffer rigorous imprisonment for six months and to pay fine of Rs.2,000/-, in default to suffer further rigorous imprisonment for three months.

3. The aforesaid conviction is challenged before this Court in a revision, at which stage the applicant sought protection of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short "Act").

4. In view thereof, this Court, by an order dated 8th June, 2015, pursuant to the provisions of section 7-A of the Act had referred the matter to the Juvenile Justice Board and called upon to make appropriate orders in the matter. The Juvenile Justice Board has passed an order ascertaining the age of the applicant as 17 years and 6 months, i.e. below 18 years.

5. In the above background, learned Counsel appearing on behalf of the applicant, while relying upon the judgment of the Apex Court in the matter of **Mahesh Jogi vs. the State of Rajasthan** reported in **2015 ALL MR (Cri) 1198**, submits that even if the conviction of the applicant is maintained, for further action he is required to be referred to the Juvenile Justice Board, which shall deal with the aspect of punishment appropriately.

(3)

6. Learned Addl. Public Prosecutor supported the claim of the applicant, in view of the judicial pronouncement in the matter of Mahesh Jogi (supra) and the report of the Juvenile Justice Board.

7. The Apex Court, in the above cited matter, particularly in paragraphs 7, 9 and 10 has held as under :-

“7. Keeping the above legal principle consistently held by this Court in the above referred to decisions, when we consider the Report of the Additional Sessions Judge, Dausa Camp, Jaipur, Rajasthan, inasmuch as the appellant was only 17 years 4 months on 20th January, 1985 he was entitled for the benefit of the Act of 2000. Since notice was issued in this appeal by way of special leave confining to the question as to whether the appellant was entitled for the benefit as a juvenile and by a decision reported in **Jitendra Singh's case, [2013 ALL MR (Cri) 2984 (S.C.)]** (supra), it was made clear that such benefit would only enure to the extent of the sentence imposed on the appellant, there is no scope for interfering with the conviction imposed on the appellant.

9. Para 6 of the said decision is reproduced hereunder:-

“6. Rule 98 of the Juvenile Justice (care and Protection of Children Rules, 2007 (hereinafter referred to as “the Juvenile Justice Rules, 2007”) provides the procedure as to how a case of juvenile who is in conflict with law should be disposed of. The same reads as follows:

(4)

“98. Disposed off cases of juveniles in conflict with law-Government or as the case may be the Board may, either suo motu or on an application made for the purpose, review the case of a person or a juvenile in conflict with law, determine his juvenility in terms of the provisions contained in the Act and Rule 12 of these Rules and pass an appropriate order in the interest of the juvenile in conflict with law under Section 64 of the Act, for the immediate release of the juvenile in conflict with law whose period of detention or imprisonment has exceeded the maximum period provided in Section 15 of the said Act.”

10. In the light of the said decision, the appellant is referred to the Juvenile Justice Board and while setting aside the sentence awarded to him without interfering with the conviction, the Juvenile Justice Board is directed to pass appropriate orders under Section 15 of the Act as regards the sentence to be undergone by the appellant. The said exercise shall be carried out by the Juvenile Justice Board expeditiously preferably within one month from the date of receipt of a copy of this order.”

8. In view of above, in my opinion, it will be appropriate to maintain the conviction of the applicant and accordingly it is maintained and the matter is referred to the Juvenile Justice Board, which shall pass appropriate order pursuant to the provisions of section 15 of the Act.

Criminal Revision Application stands disposed of in above terms.

(N.W. SAMBRE, J.)

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