

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.616 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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1. Aditya Kumar
2. Bimlesh Kumar
Both sons of Gauri Gope, resident of Ranipur Devi Asthan, Police Station
Mehndiganj, District Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Keshav Prasad Yadav, son of Late Ram Khelawan Yadav, resident of Ranipur
Devi Asthan, Police Station Mehndiganj, District Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tilak Sao

For the Respondent/s : Mr. Ajay Kumar No. 2

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 04-05-2017

Heard learned Counsel for the petitioners and
learned Additional Public prosecutor representing the State.

2. The petitioners are aggrieved by an order, dated
04.06.2016, passed in Sessions Trial No. 689 of 2002, arising
out of Khajekalan Police Station Case No. 152 of 2001, by
learned Additional Sessions Judge IV, Patna City, Patna,
whereby the petitioners' application, under Section 49 of the
Juvenile Justice (Care and Protection of Children) Act, has
been rejected.

3. The criminal case against the petitioners was
instituted in the year 2001. The date of occurrence,



admittedly, is 12.10.2001. At belated stage, in the year 2016, they claimed their juvenility, asserting that whereas petitioner no. 1, Aditya Kumar, was nearly 13 years of age; the petitioner no. 2, Bimlesh Kumar, was about 10 years of age as on the date of occurrence. The Court below, by the impugned order, dated 04.06.2016, rejected the petitioners' case mainly on the ground that they failed to make out any *prima facie* case that they were juveniles as on the date of occurrence. According to the Court below, since the petitioners failed to discharged their initial burden of making out a *prima facie* case, there was no need to refer them to the Juvenile Justice Board for the purpose of determination of their age.

4. Considering the plea taken by the petitioners in the present proceeding, I had directed for constitution of Medical Board, initially of doctors of Patna Medical College and Hospital, Patna, and subsequently of All India Institute of Medical Sciences, Patna. The Medical Board of Patna Medical College and Hospital, Patna, found petitioner no. 1 to be between 30-32 years of age as on the date of examination, i.e. 23.01.2017. Similarly, the Medical Board of Patna Medical College and Hospital, Patna, found petitioner no. 2 to be 26 years of age. If such ages are to be accepted, as on the date of occurrence, i.e. nearly 15 years back, both the petitioners would be easily said to be juveniles, being below 18 years of age.

5. The Court, having some doubt over the opinion



of the Medical Board, constituted of the doctors of Patna Medical College and Hospital, Patna, had constituted another Medical Board of the doctors of All India Institute of Medical Sciences, Patna. The said Board has assessed the age of petitioner no. 1 to be 33 $\pm$ 3 years, as on the date of examination, i.e. on 22.03.2017, and petitioner no. 2 to be 27 years $\pm$ 2 years, as on the same date.

6. Taking these reports also, the petitioners' case find some support that they were juveniles as on the date of occurrence. In that view of the matter, this Court is not left with any other option, than to set aside the impugned order, dated 04.06.2016, passed by the learned Additional Sessions Judge IV, Patna City, Patna, in Sessions Trial No. 689 of 2002.

7. Let the records of the connected case be transmitted from the Court of the learned Additional Sessions Judge IV, Patna City, Patna, to the Juvenile Justice Board, Patna, for determination of juvenility of the petitioners in terms of the above noted documents available and in the light of observation made in the present order.

8. This application stands accordingly allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.05.2017
Transmission Date	14.05.2017

