

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.708 of 2017

=====

Poshan Yadav, Son of Late Yugul Yadav, Resident of Village- Sherpur, Police
Station- Sadar, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Renu Devi, w/o Pappu Kumar @ Dharmendra Kumar, Resident of Village-
Mamarkhabad, Police Station- Pandrak, District- Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s :

For the Respondent/s :

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 11-10-2017

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

2. This revision application is directed against order
dated 03.05.2017 passed by the 2nd Additional Sessions Judge,
Muzaffarpur in Sessions Trial No. 362 of 2010 thereby holding
accused/O.P. No. 2 a minor on the date of alleged occurrence on the
basis of Medical Board report with regard to assessment of her age.

3. Learned counsel for the petitioner submits that the
Board has assessed the age, on 21.04.2017, of the O.P. No. 2 in
between 26 to 29 years, as the date of occurrence was 22.07.2009, so
on the alleged date of occurrence as per Medical Board's assessment,



the age of accused/O.P. No. 2, Renu Devi, would be 18 years and 04 months precisely, therefore, she cannot be considered a juvenile from the date of occurrence.

4. Accused/O.P. no. 2 Renu Devi claimed herself juvenile for the first time during course of trial and she took stand of juvenility but the same was rejected by the trial court, therefore, she moved quashing application before this Court, vide Cr. Misc. No. 23161 of 2016, and in the said case, the Court directed the trial court to make an enquiry in order to ascertain her age at the time of occurrence in view of Section 7-A of the Juvenile Justice (Care & Protection of Children), Act, 2000, so in this background, the trial court got accused Renu Kumari examined by the Medical Board, as there was no any documentary evidence such as matriculation certificate or certificate of first attended school or the birth certificate issued by Municipal Corporation or a municipal authority or a Panchayat. The only alternative option available with the Juvenile Justice Board was to examine her by a duly constituted Medical Board. As per the report of the Medical Board dated 21.04.2017, her age was assessed, on that date, in between 26-29 years. The Medical Board, considering clinical and radiological findings, opined, that her skull AP/Lat ide Pl. No. 351 dated 21.4.17-shows saggital and cornel suture has not fused, so it assessed her age in between 26-29 years and



the alleged occurrence is dated 22.07.2009. So her age at the relevant point of time would be approximately in between 18 years 03 months to 21 years 03 months. The procedure for determination of age of a juvenile has to be done as per Rule 11 of the Bihar Juvenile Justice (Care and Protection of Children) Rules, 2012.

5. In the present case, sub-clause (3)(b) of Rule 11 is applicable. In view of this provision, in case exact assessment of age is not done by the Medical Board, then the court, for giving reasons recorded by it, may, if to be considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of six months. The lower side of the age assessment in the present case by the Medical Board at the relevant point of time i.e., the date of occurrence is 18 years 03 months approximately. The exact assessment of age cannot be done on the basis of radiological examination, therefore, six months margin on the lower side has to be given to the accused. In that case, accused age comes to 03 months less than 18 years. The trial court has correctly applied this rule because there is provision of giving benefit of six months to the lower side of age assessed by the Medical Board, in any case, accused Renu Devi becomes juvenile in view of her assessment of age done by the Medical Board and by applying the relevant rules for the same. So the court does not find any illegality regarding assessment of her age and



she becomes juvenile in view of assessment of age done by the Medical Board. Accordingly, this application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.11.2017
Transmission Date	09.11.2017

