

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.7 of 2017

Arising Out of PS. Case No.-92 Year-2011 Thana- KASIMBAZAR District- Munger

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Bambam Kumar Yadav @ Vishal Kumar S/o Bajrangi Yadav R/o Khoja Bazar, Nayatola P.S.-Kasim Bazar P.O.-and District-Munger

... .. Petitioner/s

Versus

1. The State of Bihar
2. Munni devi W/o Munu Yadav R/o Mohalla-Khoja Bazar (Nayatola), P.S.-Kasim Bazar, District-Munger

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Syed Mohammad Shabbir Alam
For the State	:	Mr. Anant Kumar
For O. P. No. 2	:	Mr. Nawal Kishore Singh

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 13-07-2017

Heard learned Counsel for the petitioner, learned Counsel appearing on behalf of the Opposite Party No. 2 and learned Additional Public Prosecutor representing the State of Bihar.

2. The petitioner is aggrieved by an order, dated 08.08.2016, passed by learned Additional Sessions Judge V, Munger, whereby he has rejected the petitioner's claim of being a juvenile as on the date of occurrence of Kasim Bazar Police Station Case No. 92 of 2011, registered for the offences punishable under Sections 341/323/337/307/504/34 of the Indian Penal Code. The



petitioner has been named as an accused in the said First Information Report as Bumbum Kumar.

3. The petitioner, after his arrest, was remanded to judicial custody and at the time of his remand, his age was mentioned as 19 years. At the time of commitment of the case, his age has been mentioned as 21 years. After five years of lodging of the First Information Report, after framing of the charges, when the case was pending for evidence of the prosecution, the petitioner filed an application before the learned Court below that he should be declared to be a juvenile as on the date of occurrence on the ground that his name is Vishal Kumar and Bumbum Kumar is his next name. He relied on a mark sheet, issued by the Bihar School Examination Board in the name of Vishal Kumar, showing that he had appeared for the matriculation examined, held in the year 2013, i.e. much after lodging of the present First Information Report. In the said matriculation mark sheet, his date of birth has been mentioned as 01.01.1998.

4. If the plea of the petitioner of his date of birth being 01.01.1998 was to be accepted, he would have been 13½ years of age, as on the date of occurrence. The mark sheet issued by the Bihar School Examination Board, on which the petitioner place reliance, is of two years later than the date of occurrence. Further,



the petitioner raised his claim of juvenility only on the basis of something mentioned in the *sanha*, filed by the informant on 13.01.2014, in which he mentioned the name of the petitioner, as Vishal @ Bumbum. From the impugned order, I notice that the said *sanha* was made basis for seeking claim of juvenility by the petitioner before the learned Court below.

5. Learned Counsel appearing on behalf of the petitioner has submitted that the learned Court below wrongly rejected the application claiming juvenility on erroneous ground of delay in raising such claim, which could not have been the basis for rejection of the petitioner's claim, in view of the law governing the field.

6. On the basis of materials on record, I find that the petitioner has relied on a mark sheet, issued by the Bihar School Examination Board, much after the date of occurrence, when he was made accused. Further, when he was remanded on 31.10.2012, his age was assessed as 19 years. The petitioner or his Counsel did not ever raise the plea of juvenility and, now, such plea is being taken on the basis of document issued two years after the date of occurrence. The matter would have been different had the mark sheet been of date prior to the date of occurrence.



7. Considering the conduct of the petitioner of not raising a plea of juvenility at any stage of time and subsequently raising such plea on the basis of mark sheet issued two years after the date of occurrence, is indicative of the fact that the petitioner intended to get undue benefit of welfare legislation, under Section 7A of the Juvenile Justice (Care and Protection of Children) Act, 2000. I further find that the petitioner could not establish before the learned Court below that Bumbum Kumar and Vishal Kumar are names of the same person and he attempted to establish the same only with the help of something mentioned in a *sanha* filed by the informant.

8. The petitioner apparently made a dishonest attempt to get himself declared juvenile on the basis of false plea, which cannot be encouraged.

9. I accordingly do not find any illegality in the impugned order. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
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