

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.874 of 2016

=====

Pappu Ojha, son of Late Mohan Ojha, under the guardianship of elder brother, Priyanshu Kumar Ojha, son of Late Mohan Ojha, resident of village Baheri, Police Station Bhabhua, district Kaimur

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Akhouri Vipin Bihari Shrivastava

For the Respondent/s : Mr. Satya Nand Shukla

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

4 10-01-2017 Heard learned Counsel for the petitioner and learned Additional Public Prosecutor appearing on behalf of the State.

The petitioner's claim for juvenility has been rejected by an order, dated 08.12.2014, passed by the Juvenile Justice Board, Kaimur, in Juvenile Justice Trial No. 341 of 2014, which has been affirmed subsequently by the judgment and order, dated 12.05.2016, passed by the learned Sessions Judge, Kaimuar, at Bhabhua, in Criminal Appeal No. 91 of 2015.

The petitioner is an accused in Bhabhua Police Station Case No. 173 of 2014, registered for the offences punishable under Sections 364A/302/120B/201/34 of the Indian Penal Code.



The present criminal revision application has been filed against the aforesaid orders passed by the Juvenile Justice Board and the learned Sessions Judge, Kaimur, at Bhabhua.

From the impugned orders, I find that the petitioner had produced the matriculation certificate showing his date of birth as 10.02.1998. When the matriculation certificate was available showing date of birth, I fail to understand as to why other materials were taken into account in the absence of any dispute over the genuineness of the said matriculation certificate.

The extent rules, framed under the Juvenile Justice (Care and Protection of Children) Act, are clear and unambiguous. The Supreme Court decision, in the case of **Ashwani Kumar Saxena v. State of M. P.**, reported in **(2012) 9 SCC 750**, has clearly laid down the law while interpreting the rules relating to age determination enquiry, which have not been taken by the Juvenile Justice Board and the Appellate Court.

In such circumstance, I have no option but to set aside the impugned orders. Accordingly, the impugned orders, dated 08.12.2014 and 12.05.2016, are set aside.

The matter is remanded to the Juvenile Justice Board, Kaimur, at Bhabhua, for considering the claim of



the petitioner's juvenility strictly in accordance with the Rules and the Supreme Court's decision, in the case of **Ashwani Kumar Saxena** (supra).

This application is accordingly allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

U	✓	T	✓
---	---	---	---

