

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1175 of 2016

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1. Dilip Yadav @ Dilip Kumar Singh(Minor) Son of Rameshwar Yadav@Bikrama Yadav , Through Natural Guardian Smt. Devanti Devi, Wife of Rameshwar Singh@Bikarma yadav Resident of village- Jagdishpur, Police Station- Jagdishpur, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sahil Akhtar Khan@Hussain Khan Son of Mohd. Rahmat Khan Resident of village- Jagdishpur, Police Station- Jagdishpur, District- Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh

For the Respondent/s : Mr. Sri Parmanand Prasad

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 09-02-2017 Heard learned counsel for the parties.

2. The petitioner assails the judgment and order dated 16.08.2016 passed by learned Sessions Judge, Bhojpur at Ara in Criminal Appeal No. 17 of 2016, whereby an appeal preferred by Opposite party No.2 against decision of the Juvenile Justice Board declaring him to be a juvenile has been set aside and the matter has been remanded back to Juvenile Justice Board for consideration afresh.

3. The petitioner is an accused of offence punishable under Sections 147,148,149,341,323,379,307 and 302 of the Indian Penal Code. He claimed his juvenility and he got himself referred to Medical Board for determination of his age. Opposite party No.2, the informant



of the case, appearing before the Juvenile Justice Board opposed the claim of juvenility by placing reliance on matriculation certificate of the petitioner, showing his date of birth to be much above 18 years as on the date of the occurrence. The Opposite party No.2 had also relied on date of birth of younger brother of the petitioner in order to make out a case that petitioner being elder brother, he was certainly a major as on the date of the occurrence. The Juvenile Justice Board finding some dispute over correctness of the claim that the said matriculation certificate was issued in favour of the petitioner, had referred the matter to the Medical Board seeking opinion, with respect to age of the petitioner. The Medical Board assessed the age of the petitioner to be 18 years to 20 years as on the date of examination, i.e. 21.04.2016.

4. The Juvenile Justice Board, accordingly, by an order dated 02.05.2016 declared the petitioner to be a juvenile. What I notice from the order of the Juvenile Justice Board is that it does not bear the signature of the Principal Magistrate. This Court is clueless so far, as to the circumstance in which the Principal Magistrate was not a party to age determination of the petitioner, carried out by the Juvenile Justice Board.

5. The informant preferred an appeal against the



said Juvenile Justice Board dated 02.05. 2016, which has been allowed by the impugned judgment and order dated 16.08.2016. While making the order dated 16.08.2016, the learned Sessions Judge has taken into account the conduct of the petitioner in concealing material facts from the Juvenile Justice Board at the stage of age determination enquiry. He has also doubted the correctness and *bona fide* of the opinion tendered by the Medical Board.

6. Learned counsel appearing on behalf of the petitioner has vehemently argued that since none of the documents as contemplated under rules governing age determination enquiry were available before the Juvenile Justice Board, the Juvenile Justice Board adopted correct procedure by referring the matter to the Medical Board for determining the age of the petitioner. According to him, once the Juvenile Justice Board held the petitioner to be a juvenile on the basis of medical opinion, learned appellate court ought not to have taken another view on the basis of certain documents which were placed by the Opposite party No.2 in course of age determination enquiry before the Juvenile Justice Board.

7. He has placed reliance on various Supreme Court's decisions, which are as follows:-

(i) 2011 (4) PLJR 265 (Ranjeet Kumar V. State of



Bihar).

(ii) (2005) 3 SCC 551 (Pratap Singh Vs. State of Jharkhand)

(iii) (2012) 10 SCC 489 (Abzar Hossain alias Grulam Hossain V. State of West Bengal)

(iv) (2009) 6 SCC 681 (Ram Suresh Singh V. Prabhat Singh alias Chhotu Singh)

8. I have perused the impugned order, which appears to be well considered. The learned Sessions Judge in his impugned order has concluded that the petitioner concealed documents including matriculation certificate, which could have been produced before the Juvenile Justice Board at the stage of the age determination enquiry. The category of such documents finds place in the extant rules also, governing age determination enquiry.

9. It further transpires that according to the entry of date of birth as made in the matriculation certificate, the age of the petitioner would have been determined as 20 years as on the date of occurrence. Unless it is established that the said certificate is not of the petitioner, he could not have been referred to the medical Board.

10. I do not find any illegality in the impugned order.



11. This application is, accordingly, dismissed.

12. Learned counsel for the petitioner states that till date the Juvenile Justice Board has not taken any decision after the matter was remanded by the learned Sessions Judge to the Board for passing an order afresh. While dismissing the application on merits, it is directed that the Juvenile Justice Board must conclude the enquiry within a period of 60 days from the date of communication of the present order, in the light of the observation made by the learned Sessions Judge in his order, dated 16.08.2016 passed in Criminal Appeal No.17 of 2016.

(Chakradhari Sharan Singh, J)

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