

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.964 of 2016

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1. Md. Feroz Alam alias Peroz Alam son of Md. Sagir Alam resident of Village- Devri, Pipra Latif of, P.S.- Parbatta, District- Khagaria. Under the guardianship of his father, namely, Sagir Alam, son of late Sarwar resident of village Devri Pipra Llif P.S. Par Patta District-Khagaria

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh
Mr. Ram Sumiran Rai

For the Respondent/s : Mr. R.B. Roy 'Raman', APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

5 30-03-2017

Heard learned counsel for the parties.

2. The petitioner is an accused of commission of offence punishable under Section 363 of the Indian Penal Code. Upon an enquiry under Section 14 of the Juvenile Justice (Care & Protection of Children) Act, 2015, he has been found to have committed the said offence. Allegedly, he had kidnapped a minor girl from the lawful guardianship of her parents.

3. After having recorded satisfaction that the petitioner committed the said offence, the Juvenile Justice Board directed the authorities to keep him in Correction/Special Home for a period of one year, with the period already undergone in custody to be set off. His appeal



has been dismissed by learned Sessions Judge, Khagaria by an judgment and order dated 18.06.2016 passed in Criminal Appeal No. 23 of 2015 thus, affirming the decision of the Juvenile Justice Board. The present criminal revision application has been filed under Section 53 of the Juvenile Justice (Care and protection of Children) Act, 2000, against the aforesaid judgments and orders.

4. Learned counsel appearing on behalf of the petitioner assailing the impugned judgments and orders has submitted that accusation of commission of offence under Section 376 of the Indian Penal Code was also made against him in the enquiry before the Juvenile Justice Board. The Juvenile Justice Board, however, found him not guilty of the said offence. He has further submitted that on careful reading of the evidence of the victim herself, it will appear that the victim and the petitioner were in association with each other for quite sometime and in that view of the matter, offence under Section 363 of the Indian Penal Code cannot be said to be made out and, therefore, the findings recorded by the Board and the Court below are not sustainable.

5. He has also submitted that considering the genesis of the occurrence and the nature of accusation, the Court below and the Juvenile Justice Board ought to have taken a lenient view while making an order under Section 15



of the Act, after holding the petitioner guilty of the offence punishable under Section 363 of the Indian Penal Code. He has submitted that the petitioner was found not to be involved in any other offence and reports submitted by the Probation Officer was also in his favour. According to him, direction to keep the petitioner in Correction/Special Home should be taken only extreme cases.

6. He has further submitted that the petitioner has remained in Correction/Special Home for a total period of nine months and 25 days by now.

7. So far as submission made on behalf of the petitioner that since the petitioner and the victim were in close association with each other from much before the date of occurrence and the victim had gone with the petitioner out of her own sweet will and therefore, no offence under Section 363 of the Indian Penal Code is made out, in my view, cannot be accepted. Admittedly, the victim was a minor, below 16 years of age as on the date of the occurrence. In such circumstance, her consent to go with the petitioner even if accepted cannot absolve the petitioner of the offence punishable under Section 363 of the Indian Penal Code.

8. However, I find some substance in the submission made on behalf of the petitioner that lenient view can be taken, the petitioner being a minor, after he has



already spent substantial time in the Correction/Special Home. He is said to have spent nine months and 25 days against order of the Juvenile Justice Board of one year.

9. Considering the submissions advanced on behalf of the petitioner and the other materials on record, the order of the Juvenile Justice Board and the appellate Court is modified only to the extent that the direction to remain in Correction/Special Home is hereby, reduced to a period for which the petitioner has already remained there.

10. The application stands disposed of.

(Chakradhari Sharan Singh, J)

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