

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.825 of 2016

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Praveen Kumar Yadav, S/o Pramod Yadav, R/o Vill.-Dhankheta,
P.S.-Gogari, District-Khagaria, under the guardianship of his
mother, Bimla Deiv, W/o Pramod Yadav, R/o Vill.-Dhankheta,
P.S.-Gogari, District-Khagaria.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikram Deo Singh, Adv.
Mr. Rajesh Kumar, Adv.

For the State : Mr. Sanjay Kr. Tiwary-No. 1, APP

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 17-01-2017

Heard learned counsel, appearing on behalf of
the petitioner, and learned Additional Public Prosecutor,
appearing on behalf of the State of Bihar.

2. This criminal revision application has been
filed against the judgment and order, dated 28.06.2016,
passed by the learned District and Sessions Judge, Khagaria,
in Cr. Appeal No. 01 of 2016, whereby he has affirmed an
order, dated 14.12.2015, passed by the Juvenile Justice



Board, Khagaria, in connection with G.R. No. 228 of 2003, arising out of Gogari P.S. Case No. 37 of 2003. The Juvenile Justice Board held the petitioner guilty of the offences punishable under Section 376 read with Section 34 of the Indian Penal Code. After having held him guilty of the said offence, the Juvenile Justice Board directed the authorities concerned to keep the petitioner in correction/special home for a period of three (3) years after setting off the period already undergone by him. The learned appellate Court has confirmed the said conviction and order passed by the Juvenile Justice Board, Khagaria.

3. Learned counsel, appearing on behalf of the petitioner, assailing the judgments and orders, has submitted that there was absolutely no evidence, adduced at the trial, sufficient to record conviction of the petitioner. He has, accordingly, submitted that the judgment of conviction deserves to be reversed and the petitioner be acquitted of the charge.

4. I have perused the order, dated 14.12.2015, passed by the Juvenile Justice Board, Khagaria, and the impugned judgment and order, dated 28.06.2016, passed by the learned District and Sessions Judge, Khagaria. The case of the prosecution in brief is that on 21.02.2003, the daughter of the informant 'K' (real name concealed to withhold



identification), aged nearly 9 years had gone to the field to pluck green vegetables along with informant's nephew. The informant, who was going towards the same field, heard a cry being raised by his nephew and when he reached there he saw co-accused, namely, Navin Kumar Yadav, committing rape on said 'K' and the present petitioner, namely, Praveen Kumar Yadav, assaulting the informant's nephew. With the allegation of this nature *inter alia*, the First Information Report came to be registered and upon completion of investigation, the police submitted charge-sheet, whereafter, cognizance was taken. Since the petitioner was declared as juvenile, enquiry ensued under the Juvenile Justice (Care and Protection of Children) Act, 2000. Upon completion of enquiry, the Juvenile Justice Board held the petitioner guilty of the offence punishable under Section 376 of the Indian Penal Code. The petitioner, thereafter, preferred an appeal, which came to be dismissed by the learned District and Sessions Judge, Khagaria, by the impugned judgment and order dated 28.06.2016.

5. Learned counsel, appearing on behalf of the petitioner, has submitted that necessary ingredients to constitute offence, under Section 376 of the Indian Penal Code, against the petitioner were not present and despite that learned courts below held the petitioner guilty of the said



offence. According to him, the judgments and orders have been passed in mechanical manner, without any application of judicial mind.

6. I have perused the judgments and orders passed by the Juvenile Justice Board, Khagaria and learned District and Sessions Judge, Khagaria. From the order of Juvenile Justice Board, I find that the prosecution witnesses, at the enquiry, had supported the case of the prosecution. The victim 'K' and the eye-witness, namely, Amarjeet Kumar (P.W.-5), had supported the case of the prosecution. The evidence of the doctor corroborates the case of the prosecution. The appellate Court has taken into account the evidence on record and has discussed and re-appreciated the same before confirming the finding of conviction and order passed by the Juvenile Justice Board. The scope of revisional Court against concurrent findings is limited and interference with such findings is necessitated only if the findings are completely perverse and against the evidence on record.

7. Considering the fact that learned District and Sessions Judge, Khagaria, upon examining the materials on record and after detailed discussions, with reference to the evidence adduced at the trial, has confirmed the order passed by the Juvenile Justice Board, Khagaria, I do not feel inclined to interfere with the same as the findings cannot be said to be



perverse and contrary to records.

8. Learned counsel, appearing on behalf of the petitioner, has submitted that the petitioner has remained confined and under observation for considerable period and that he is nearly 36 years of age as on date.

9. Considering the above, the petitioner is directed to be released forthwith.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.01.2017
Transmission Date	19.01.2017

