IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3387 OF 2017

Vipul Laxmichand Poladia …Petitioner
Versus
Laxmichand J.Vira & Anr. …Respondents

Mr.Cherin Lapshiya i/b Niranjan & Co. for Petitioner.
Mr. Rajendra Thakkar for the Respondent No.1
Mr.P.H.Gaikwad- Patil , APP for the State.

CORAM: A.M. BADAR J.
DATED: 29th September, 2017

PC:-

1. By this petition, accused No.2 before the learned Trial Magistrate is challenging the order dated 27.06.2017 passed by the learned Sessions Judge Greater Bombay in Criminal Revision Application No.106 of 2017.

2. Heard the learned advocate appearing for the petitioner/original accused. He submitted that the Revision Petition itself is not maintainable in view of Section 102 of

the Juvenile Justice (Care and Protection of Children) Act, 2015. The Revision against the order of the Court lies before this Court and not before the learned Sessions Court. By drawing my attention to Section 23 of the Juvenile Justice (Care and Protection of Children)Act, 2015, the the learned Advocate further argued that joint trial or joint proceedings of a child in conflict with law and a person who is not a child that cannot be taken up and therefore, the impugned judgment and order of the Revisional Court is illegal.

3. I heard the learned advocate appearing for the respondent/original complainant as well as learned APP. Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides Revisional Authority so far as orders passed by any Committee, Board or Children's Court or Court. The order impugned in the Revision Petition before the learned Sessions Judge was an order dated 27.12.2016 passed by the learned Additional Chief Metropolitan Magistrate, 5th Court, Dadar, Mumbai. Obviously, the said

Court is not a Committee, Board or Children's Court. The term '*Court*' is defined in section 2 (23) of the Juvenile Justice (Care and Protection of Children)Act, 2015 and it means a Civil Court, which has jurisdiction in matters of adoption and guardianship. Such Court may include the District Court, Family Court or City Civil Court. Hence, the Court of the learned Metropolitan Magistrate does not come under the definition of Section 2(23) of the Juvenile Justice (Care and Protection of Children)Act, 2015.

4. Section 23 bars joint trial of the juvenile in conflict with law that any person who is not a juvenile. In the case in hand claim of juvenility of the petitioner, which was came to be made and accepted by the Additional learned Metropolitan Magistrate came to be revised by the learned Sessions Judge with an observation that the learned trial Magistrate has not considered the fact as whether the petitioner/accused was juvenile in conflict with law when payments were made in the year 1994. Effect of Section 25 of the Juvenile Justice (Care

and Protection of Children)Act, 2015 was not found to have considered by the trial Magistrate and therefore, the learned Sessions Judge was pleased to quash and set aside the impugned order passed by the learned Magistrate and the matter was remanded back for fresh consideration.

5. I find no infirmity or error of law committed by the learned Sessions Judge in exercise of his Revisional jurisdiction in the matter. The petition as such is devoid of merits and hence the same is dismissed.

(A.M. BADAR, J)