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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1122 OF 2012

Bannapa Saylu Bhimreddy

.....Appellant

V/s.

The State (at the instance of
Vikhroli Police Station)

.....Respondent

* * * *

Mr. R.M. Khairnar h/f. Ms. Vrishali Raje, Advocate for the
appellant.

Mr. H.J. Dedhia, APP for the respondent, State.

CORAM :-

SANDEEP K. SHINDE, J.

DATE :-

4th JULY, 2017.

P.C. :-

1. The appellant in Criminal Appeal No. 1122 of 2012 was convicted for an offence punishable under Section 304 (Part-II) and sentenced to suffer imprisonment for 10 years and to pay fine of Rs.5,000/- in default to suffer simple imprisonment for 3 months. He

was convicted by the Additional Sessions Judge, Greater Bombay in Sessions Case No. 668 of 2011 on 30th July, 2012. The convict vide an application through jail, would claim that he was a juvenile when the alleged offence was held to be committed by him.

2. That in view of the said claim, by order dated 21st December, 2016, the Additional Sessions Judge was directed to decide his claim of being juvenile within four weeks.

3. The Learned Additional Sessions Judge vide order dated 16th January, 2016 held and declared the appellant herein was a juvenile as on the date of commission of offence in Crime No. 212 of 2011. Perused the provisions of Section 7(A) of the Juvenile Justice (Care and Protection of Children) Act, 2000 which reads as under :-

“ [7A. Procedure to be followed when claim of juvenility is raised before any court. –

(1) Whenever a claim of juvenility is raised before any court or a court is of the opinion

that an accused person was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) so as to determine the age of such person, and shall record a finding whether the person is a juvenile or a child or not, stating his age as nearly as may be:

Provided that a claim of juvenility may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such claim shall be determined in terms of the provisions contained in this Act and the rules made thereunder, even if the juvenile has ceased to be so on or before the date of commencement of this Act.

(2) If the court finds a person to be a juvenile on the date of commission of the offence under sub-section (1), it shall forward the juvenile to the Board for passing appropriate order and the sentence, if any, passed by a Court shall be deemed to have no effect.]”

4. In view of the report received from the Learned Additional Sessions Judge that the appellant was a juvenile as on the date of the offence for which he was tried, the sentence recorded against him in Sessions Case No. 668 of 2011 by the Additional Sessions Judge, Sewree, Bombay is deemed to have no effect.

. That in terms of sub-section 2 of Section (7-A) the

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jail authorities are directed to produce the appellant before the Board for passing appropriate orders.

5. That in view of the aforesaid order, nothing survives in the Appeal. The Appeal is accordingly disposed off.

(SANDEEP K. SHINDE, J)