

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 2367 of 2017 (O&M)

Date of decision : 21.12.2017

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Vicky

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr.Rajesh Lamba, Advocate for the petitioner

Mr. Neeraj Poswal, Assistant Advocate General,
Haryana.

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H. S. Madaan, J. (Oral)

This revision petition is directed against order dated 17.6.2017, passed by Additional Sessions Judge-cum-vacations Judge, Faridabad, vide which the appeal filed by the present petitioner was dismissed and order dated 8.2.2017 passed by Principal Magistrate, Juvenile Justice Board, Faridabad, vide which the bail application moved by the petitioner had been dismissed.

Briefly stated, the facts of the case are that complainant Ashok s/o Late Baljit Singh, of barber community, r/o House No. A-1, Village Molarband, Near Pipal Wala Kuan, Badarpur, Delhi, has

been working as a driver in Tata Company, Noida, Phase II, having three children, two boys and one girl. Rohit happened to be his youngest son; that he was student of 9th class of Mithapur Government School; that about 10 days prior to the fateful day, Rohit had gone to the shop of Lekh Chand for buying some items; that there was exchange of words and calling of bad names between Rohit and Lekh Chand about rate of items; that the complainant intervened then Lekh Chand and his son Gaurav had threatened to kill his son Rohit; that thereafter Lekh Chand and his son Gaurav started keeping ill-will against Rohit and on 28.11.2016 at about 6.00 P.M. when complainant returned home, then his son Mannu @ Manoj told him that Rohit had been beaten with legs and fist blows by Gaurav, Deepak and Vicky in Durga Builder; that Gaurav, Deepak and Vicky took his son Rohit in an unconscious condition to Delhi Apollo Hospital; that complainant and his younger brother Sunil reached there and found that Rohit had been declared dead by the doctors; that Lekh Chand father of Gaurav came across the complainant; that Mannu and Ashok told the complainant that Rohit had been beaten with legs and fist blows by Gaurav, Deepak and Vicky, causing him injuries, to which Rohit had succumbed; that the complainant nursed a suspicion that Gaurav and Vicky had beaten his son Rohit at the asking of Lekh Chand.

Initially FIR under Section 302, 34, 120-B IPC had been registered on the basis of statement of complainant Ashok. However, during investigation, the offences under Sections 302, 120-B IPC were deleted and Section 304 IPC was added.

Petitioner – Vicky had applied for bail under Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter to be referred as 'the Act') before the Principal Magistrate, Juvenile Justice Board, Faridabad. However, his such application was dismissed vide order dated 8.2.2017. The petitioner preferred an appeal under Section 101 of the Juvenile Justice Act, but the same was dismissed vide order dated 17.6.2017, therefore, he has filed the present revision petition, contending that the courts below did not appreciate that an exception had been carved out for declining bail to the juvenile, who had been in conflict with law i.e. he/she is likely to come in association with criminal or upon release of bail would put such juvenile to moral, physical or physiological hardship or that the release of the juvenile will defeat ends of justice; that for invoking such exception there has to be some material before the competent court on the basis of which it can observe that release of juvenile will fall within exceptions recognized under Section 12 of the Act; that the impugned order do not reflect any reasoning; that the Magistrate has declined the bail primarily on the ground that if juvenile is released on bail he may tamper with evidence, which is not the exemption provided under Section 12 of the Act. The revisionist-petitioner prays that the impugned orders passed by the Courts below be set aside and he be granted bail during pendency of trial.

Notice of motion to the State was given, who had put in appearance through State counsel.

I have heard, counsel for both the sides besides going

through the record of the case.

For ready reference, the reasoning given by Principal Magistrate, Juvenile Justice Board, Faridabad, for declining bail to the petitioner is reproduced as under:-

“Therefore, from the grave nature of the allegations levelled against the juvenile namely Vicky, it appears that he is very much capable of apprehending what is right and wrong and understands his actions sufficiently and therefore, as a necessary corollary, it would follow that the release of such juvenile would defeat the ends of justice. Reliance can be placed upon **Shimil Kumar vs. State of Haryana, 2013 (4) RCR Criminal page 16** for the said purpose. In the said judgment, Hon'ble High Court has held in judgment para 30 that in case, where the juvenile has been accused of aggravated offences which shock the conscience of the society. It would be safer to protect him from the collective wrath of the society, on account of retribution such dastardly act may possibly invite. Further, it is worthwhile to mention that the earlier bail application of the juvenile was dismissed by the board vide order dated 23.12.2016 and therefore, the learned counsel for the applicant/juvenile has failed to show any new ground for allowing the

second bail application and in the present case complaint and material witnesses have not been examined till date, therefore in these circumstances in case of release of juvenile on bail at this stage then there is an apprehension that he may tamper the evidence and may come in contact with criminals and it shall also defeat the ends of justice. Therefore, there is no ground to allow the second bail application in hand and accordingly same stands dismissed.”

The contention of learned counsel for the petitioner that there was no material available with the Principal Magistrate, Juvenile Justice Board, in arriving at such conclusion, is devoid of any merit. Rather it comes out that the conclusion arrived at, is in the light of facts and circumstances of the case, the objective and subjective satisfaction of such Principal Magistrate. The order is well reasoned one.

Similarly, the learned Additional Sessions Judge, Faridabad, while dismissing the second appeal under Section 101 of the Act, has observed that the first appeal was dismissed as withdrawn on 22.5.2017, and the second appeal was barred by Act itself, in view of Section 101 (4) of the Act. Therefore, the appeal was dismissed.

There is no illegality or infirmity in the orders passed by the Principal Magistrate or Additional Sessions Judge, much less the same was apparent on the face of such orders. The orders can

certainly be not termed as perverse or passed in violation of the settled principles of criminal jurisprudence.

The criminal revision petition is rather found to be without any merit and the same is accordingly dismissed.

The lower court record be returned at the earliest.

(**H.S. Madaan**)
Judge

21.12.2017.

chugh	Whether speaking / reasoned	Yes / No
	Whether reportable	Yes / No