

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Revision No.57 of 2018**

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1. Rajiv Rout @ Rajiv Kumar S/o Raj Kumar Rout, R/o village- Barki Malaman, Bighapar, P.S.- Sarmera, District- Nalanda under the natural guardian of his father.

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Satya Ranjan Sinha

For the Respondent/s : Mr. Sri Sakir Ahmad

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

2      10-04-2018

Heard the counsel for the petitioner.

The juvenile/petitioner has been made accused in connection with Nalanda (Mahila) P.S. Case No. 52/2017 dated 22.03.2017 instituted for the offences under Sections 376(D), 341, 323, 504 and 506 of the Indian Penal Code read with Section 8 of the POCSO Act, 2012.

On the date of the occurrence, the juvenile/petitioner was more than 16 years but less than 18 years of age. Since, Section 376 (D) of the Indian Penal Code would fall in the category of heinous cases as defined under Section 2 (33) of the Juvenile Justice (Care and Protection of Children) Act, 2015, the juvenile/petitioner was required to be assessed in terms of Section 15 of the Act thereof to come to the conclusion whether the juvenile/petitioner needs to be tried as an adult.



Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads as follows:

**Preliminary assessment into heinous offences by Board.-**

- (1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of section 18:

*Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers of other experts.*

- (2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 (2 of 1974):

*Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101.*

*Provided further that the assessment under this section shall be completed within the period specified in section 14.*



From the perusal of the order of the Juvenile Justice Board, it appears that no such assessment has been made.

From the perusal of the appellate order also, it does not appear that any assessment under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 has been made.

As such, the orders passed by the Juvenile Justice Board dated 06.09.2017 and appellate order dated 09.11.2017 are set aside.

The case is remitted to the court of the learned Juvenile Justice Board, Biharsharif, Nalanda for assessing the case of the juvenile/petitioner under Section 15 of the Act for the purposes of deciding whether the juvenile/petitioner requires to be tried as an adult.

If the juvenile/petitioner feels aggrieved by any order of the Juvenile Justice Board, he can avail of his remedies which are available to him under the law.

With the aforesaid direction, the present revision petition is disposed off.

**(Ashutosh Kumar, J.)**

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