

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.431 of 2018

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Pappu Kumar S/o Santosh Yadav, R/o Vill.- Ward No.3,
English, P.S. & District- Lakhisarai, Under Guardian- Ship
and Natural Guardian-Ship and representative of his Father
namely Santosh Yadav S/o Late Ramdeo Yadav, R/o Vill.-
Ward No. 3, English, P.S. @ District- Lakhisarai.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rabi Bhushan
For the Respondent/s : Mr. Sri Rajkishore Singh

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 02-08-2018 The petitioner, who has been made accused in
connection with Lakhisarai P.S. Case No. 205 of 2016 dated
25.04.2016 instituted for the offences under Sections 302,
120(B), 34 of the Indian Penal Code and Section 27 of the
Arms Act, has been declared a juvenile by the Juvenile
Justice Board, Lakhisarai holding the age of the petitioner, on
the date of the occurrence as seventeen years and three
months.

The prayer made on behalf of the petitioner for being
released from the remand home has been rejected. The
learned 1st Additional Sessions Judge, Lakhisarai, in appeal,



has affirmed the order of the Juvenile Justice Board.

From the perusal of the order passed by the Juvenile Justice Board as also the Appellate Court, it does not appear that the Courts below have assessed the case of the petitioner in terms of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Section 15 of the Act referred to above, reads as follows:-

"15. 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 or 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."

The aforesaid provision of law is mandatory and non-observance of the same has rendered both the orders unsustainable in the eyes of law.

The consideration under Section 15 of the Act has been necessitated because of the petitioner's age being between sixteen and eighteen years and he being an accused in an offence which can be characterized as heinous in terms of Section 2(33) of the Act referred to above.

Considering the aforesaid facts, the order dated 11.01.2018 passed by the learned Juvenile Justice Board, Lakhisarai in connection with G.R. No. 539 of 2016, arising out of Lakhisarai P.S. Case No. 205 of 2016 as well as the order dated 13.03.2018 passed by the learned 1st Additional Sessions Judge, Lakhisarai are set aside.

The case of the petitioner is remitted to the Court of learned Juvenile Justice Board, Lakhisarai to assess the case of the petitioner in terms of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and pass a reasoned order within a period of four weeks from the date of production/receipt of a copy of this order.

In case the petitioner feels aggrieved by any order passed by the Juvenile Justice Board, he can take recourse to



the remedy available to him under law.

With the aforesaid observation and direction, the present petition is disposed of.

(Ashutosh Kumar, J)

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