

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1211 of 2017

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Ajit Kumar @ Ajit Yadav @ Sewak Yadav S/o Mukhal Yadav
@ Mithilesh Prakash, R/o Village- Dariyapur (Dariya Sarai),
P.S.- Silao, District- Nalanda (Bihar), Through its natural
Guardian Mukhal Yadav, @ Mithilesh Prasad S/o Ramdeo
Prasad, R/o Village- Dariyapur (Dariya Sarai), P.S.- Silao,
District- Nalanda (Bihar).

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 26-03-2018 The age of the petitioner has been assessed as more
than 16 years on the date of occurrence.

The petitioner has been made an accused in connection
with Gariyak P.S. Case No. 188 of 2017 instituted for the
offence under Section 302 of the Indian Penal Code, Section
27 of the Arms Act and Section 3(2)(Va) of the SC &
ST(Prevention of Atrocities) Act.

From the perusal of the order passed by the Juvenile
Justice Board as also of the Appellate Court in Juvenile
Appeal No. 10 of 2017, it appears that the Courts below have
not assessed the case of the petitioner under 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."

In the absence of the preliminary assessment in a heinous offence by the Juvenile Justice Board or the Appellate Court, the order dated 08.08.2017 passed by the learned Juvenile Justice Board in connection with Giriyak P.S. Case No. 188 of 2017 as well as the order dated 18.10.2017



passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Nalanda in Juvenile Appeal No. 10 of 2017 are set aside.

The case is remitted to the Court of learned Juvenile Justice Board, Nalanda at Biharsharif 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 three weeks from the date of communication of the order or on presentation of the order before it.

Should the petitioner feel aggrieved by the assessment, he may approach the competent forum thereafter.

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

(Ashutosh Kumar, J)

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