

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.3 of 2018

Arising Out of PS. Case No.-136 Year-2016 Thana- DHAMDHAHA District- Purnia

Rohit Kumar @ Rohit Sharma, Son of Late Pappu Sharma, Resident of Village- Banshi Purandaha, Police Station- Dhamdaha in the district of Purnea, under guardianship of own uncle Pintu Sharma, Son of Ramdeo Sharma, Resident of Village- Banshi Purandaha, Police Station- Dhamdaha in the district of Purnea.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar
For the Respondent/s : Mr. SRI NITYANAND

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 16-03-2018 The petitioner has preferred this revision petition against the order passed by the Juvenile Justice Board, Purnea as well as the learned appellate court in Cr. Appeal No. 25 of 2017/CIS NO. 66 of 2017, arising out of Dhamdaha P.S. Case No. 136 of 2016 whereby the prayer made on behalf of the juvenile/petitioner for being released from the remand home has been rejected.

The petitioner has been made accused in a case under Section 366A and other Sections of the Indian Penal Code which 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 (hereinafter referred to as the 'Act').

The age of the petitioner has been assessed at more than 16 years.

A perusal of the order dated 12.09.2017 passed by the Juvenile Justice Board, Purnea as well as the learned appellate order, it appears that no assessment of the juvenile was made under Section 15 of the Act regarding the mental and physical capacity of the petitioner to commit such offence, his ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence.

Since the aforesaid requirement is mandatory in nature, and that not having been complied with by both the courts below viz. Juvenile Justice Board, Purnea and the learned appellate court, both the orders impugned are set aside. The matter is remitted



to the court of the Juvenile Justice Board for assessment of the juvenile/petitioner in terms of the Section 15 of the Act.

Section 15 of the Act, for convenience is being extracted below :

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.

(Emphasis supplied.)



In case the Juvenile/petitioner is aggrieved by the order passed by the Juvenile Justice Board, he would be at liberty to avail of his remedies available to him under the law.

With the aforesaid direction/observation, this petition is disposed of.

(Ashutosh Kumar, J)

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