

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.318 of 2018

Arising Out of PS. Case No.-188 Year-2014 Thana- GARKHA District- Saran

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Mantu Shah @ Mantu Kumar Shah, S/o Upendra Shah, resident of Village
Bhagwani Chapra, P.S. Garkha Distt. Chapra, Saran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar

For the Respondent/s : Mr. Dr. Ajeet Kumar

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 19-06-2018

The petitioner who has been declared a juvenile by the Juvenile Justice Board and whose age has been assessed as more than 17 years has challenged the appellate order dated 12.02.2018 whereby the order of the Juvenile Justice Board, rejecting his prayer for being released from the remand home, has been upheld and affirmed.

From the perusal of the orders passed by the Juvenile Justice Board as also the appellate court, it clearly appears that there has not been any application of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

The offence alleged against the petitioner and others is under Section 302 of the Indian Penal Code which falls in the category of heinous cases as defined



under Section 2(33) of the Act. Since the petitioner is more than 16 years of age and less than 18 years of age, the case of the petitioner is required to be assessed in terms of Section 15 of the Act which 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.

Explanation. - For the purposes of this section, it is clarified that preliminary assessment is not a trial, but



is to assess the capacity of such child to commit and understand the consequences of the alleged offence.

(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.

Since either the Juvenile Justice Board and the appellate court have not complied with the aforesaid requirement of law, both the orders are not fit to be sustained in the eyes of law.

They are therefore, set aside.

The case of the petitioner is remitted to the Juvenile Justice Board, Chhapra. The Juvenile Justice



Board, after enquiry shall pass a reasoned order in accordance with law preferably within a period of four weeks from the date of receipt/production of a copy of this order.

In case the petitioner is aggrieved by the order of the Juvenile Justice Board, he may take resort to the remedies available to him under law.

With the aforesaid direction, the present revision petition is disposed of

(Ashutosh Kumar, J)

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