

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.242 of 2018

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Krishna Kumar Singh @ Krishna Kumar @ Creemchap,
(Minor), Son of Sahdeo Singh, under guardianship of his
cousin brother Ramesh kr. Singh, S/o Amendar Pd. Singh,
Resident of Village- Fatehpur, P.S.- Raghobpur, Distt.-
Vaishali.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.

For the State : Mr. Md. Ashlam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 12-04-2018 The juvenile/petitioner seeks his release from the remand home where he has been lodged in connection with Raghobpur P.S. Case No. 123 of 2017, dated 06.11.2017, instituted for the offence punishable under Section 377 of the Indian Penal Code, which falls in the category of heinous cases as defined under Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short '**the Act**').

The date of birth of the juvenile/petitioner is stated to be 16.03.2000 and, therefore, on the day of the



occurrence, he was more than 16 but less than 18 years of age. In such circumstances, his case had to be assessed in terms of Section 15 of the Act.

From the perusal of the order passed by the Juvenile Justice Board as also the learned 1st Addl. Sessions Judge-Cum-Special Judge, Vaishali at Hajipur, it appears that no such assessment has been made.

As such, both the orders, referred to above, are set-aside.

The case of the petitioner is remanded to the Juvenile Justice Board, Vaishali at Hajipur for assessing the case of the juvenile/petitioner in terms of Section 15 of the Act.

For the sake of completeness and convenience, Section 15 of the Act is extracted hereinbelow:-

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:

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 Juvenile Justice Board, within a period of four weeks from the date of receipt/production of a copy of the present order, shall decide the case in terms of Section 15 of the Act and pass necessary orders in accordance with law.

Should the juvenile/petitioner feel aggrieved by the order passed by the Juvenile Justice Board, he may avail of his remedies which are available to him in the eyes of law.

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

(Ashutosh Kumar, J)

Praveen-II/-

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