

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.568 of 2018

Arising Out of PS.Case No. -529 Year- 2017 Thana -PHULWARI District- PATNA

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1. Ambhi @ Abhi @ Abhishek Raj, Minor, S/o Raghwendra Kumar Bharti and is under Guradianship of his Father, R/o Village- Govindpur, P.S.- Phulwari Sharif, District- Patna.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vibhuti Ranjan Sonvadra-Advocate

For the Respondent/s : Mr. Binod Bihari Singh- A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

03 05-03-2018

Heard learned counsel for the appellant as well as learned Additional Public Prosecutor.

On account of refusal of prayer for bail by the Children Court, which has been assigned as 1st Additional Sessions Judge, Patna relating to Special Case No.05 of 2018, instant appeal has been filed in accordance with Section 101 of the Juvenile Justice (Care & Protection of Children) Act with a simple prayer that appellant being declared juvenile in conflict with law be allowed bail by way of setting aside the order impugned.

At an earlier occasion, finding some sort of deficiency in the order impugned, the learned counsel for the appellant was requested to file order of the lower Court on supplementary affidavit and the same happens to be properly



complied with. After going through the same, it is evident that Juvenile Justice Board while proceeding with the inquiry vide order dated 16.11.2017, recalled the earlier date and then thereafter, passed substantial order transmitting the record to the Children Court. Not only this, when the entire order sheet has been gone through, it is evident that on 04.09.2017, a prayer was made on behalf of appellant before the Court concerned claiming himself to be juvenile and for that, filed Grade Sheet issued by C.B.S.E., Delhi, whereupon the learned Court below separated the case of the appellant and transferred the same to the Juvenile Justice Board on the basis thereof, Juvenile Justice Board Case No.509 of 2017 was registered. From subsequent order sheet i.e. 19.09.2017, 22.09.2017, 03.10.2017, 10.10.2017, it is evident that without conducting an inquiry in terms of Section 94 of the Act, declared the appellant to be juvenile in conflict with law vide order dated 10.10.2017. At that very moment, the learned Court below should have considered the criteria so fixed for appreciation as laid down under Sub-section-2 of Section 94 of the Juvenile Justice Act and further, with regard to authenticity, genuineness of the document. Virtually, the steps having been taken by the Juvenile Justice Board suggest that whole things have been proceeded with in a manner so prescribed under mathematical



equation and that being so, the whole subsequent event whatever been carried out identifying the appellant to be juvenile in conflict with law and transmitting the record to the Children Court appears to be against the spirit of law.

Although, the appellant has come up to invoke the appellate jurisdiction, which is found duly influenced with the inherent power specially bestowed in order to prevent abuse of process of law, whereupon, the successive orders having been passed by the learned lower court are hereby set aside directing the learned lower court to proceed afresh in accordance with mandate of law.

With the aforesaid direction, instant appeal is disposed of.

(Aditya Kumar Trivedi, J)

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