

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.332 of 2018

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Rohit Kumar @ Rohit Kumar Yadav Son of Murari Yadav
resident of Village - Antuwa, P.S. - Suiya, District - Banka.

.... Petitioner/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary

For the Respondent/s : Mr. Dr. Kumar Uday Pratap

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 10-08-2018 The petitioner was declared a juvenile by the learned Juvenile Justice Board, Banka and his age has been assessed as more than sixteen years on the date of occurrence.

The petitioner has been made an accused in connection with Banka Mahila P.S. Case No. 45 of 2017 dated 06.10.2017 instituted for the offences under Section 376 of the Indian Penal Code, Section 4 of the Protection of Children From Sexual Offences Act, 2012 and Section 67(B) of the Information Technology Act, 2000.

The prayer made on behalf of the juvenile/petitioner for being released from the remand home was rejected by the learned Juvenile Justice Board, Banka and the aforesaid order has been upheld and affirmed by the learned 1st Additional District & Sessions Judge, Banka by order dated



19.02.2018 passed in Cr. Appeal No. 4 of 2018.

From the perusal of the orders passed by the Juvenile Justice Board as also the Appellate Court, it appears that there has not been any assessment of the petitioner in terms of 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."

Since the aforesaid provision is mandatory in nature, the order dated 23.12.2017 passed by the learned Juvenile Justice Board, Banka in connection with Banka Mahila P.S. Case No. 45 of 2017 as well as the order dated 19.02.2018 passed by the learned 1st Additional Sessions Judge, Banka in Cr. Appeal No. 4 of 2018 cannot be sustained in the eyes of law and are set aside.

The case of the petitioner is remitted to the Court of learned Juvenile Justice Board, Banka 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 an order in accordance with law preferably within a period of sixty days from the date of production/receipt of a copy of this order.

Should the petitioner feel aggrieved by any order passed by the Juvenile Justice Board, he can take recourse to the remedy available to him under law.

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

(Ashutosh Kumar, J)

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