

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1064 of 2017

Arising Out of PS. Case No.-11 Year-1998 Thana- JAGDISHPUR District- Bhagalpur

Tinku Yadav @ Sanjay Kumar

... .. Petitioner/s

Versus

State Of Bihar and Anr

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Saghir Ahmad

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

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 26-08-2019 This application has been filed for setting aside the order dated 19.08.2017 passed by learned 3rd Additional District Judge, Bhagalpur in S. Tr. No. 434 of 1999, by which, he has rejected the prayer of the petitioner for separating his case as he claimed himself to be a minor and sending it to the Juvenile Justice Board.

Case in short is that Jagdishpur P.S. Case No. 11 of 1998 with allegation that while the informant was going to his house after selling milk along with his brother, then petitioner fired upon them and he sustained injuries and brought to the hospital.

It appears that the case after cognizance and commitment travelled to the file of learned 3rd Additional District Judge, Bhagalpur for trial and disposal. It further



appears that case proceeded and after adducing the evidence and when the case is posted for statement, a plea of Juvenility has been taken by the petitioner by producing a certificate showing his date of birth as 02.04.1987, which is annexure -3 to this application. Case of the petitioner is also that he has taken such plea before the learned Chief Judicial Magistrate also but his claim was rejected and the learned Additional District Judge, Bhagalpur vide impugned order dated 19.08.2017 has rejected the prayer of the petitioner for separating his trial and sending the case records to Juvenile Justice Board on the ground that there is overwriting in the transfer certificate and it also does not contain the seal and the signature is also faint.

Being aggrieved, the petitioner has preferred the present application on the ground that the petitioner has made a claim of juvenility and it is upto the learned court to assess and after assessing, if the petitioner is fond juvenile, the case of the petitioner has to be separated and the records has to be sent to the Juvenile Justice Board but the learned Court below only on the ground that certificate produced by the petitioner does not bear the seal has rejected the claim of the petitioner without verifying the authenticity of the certificate produced by the petitioner and thus the impugned order passed by the learned 3rd



Additional District Judge, Bhagalpur is not sustainable.

Learned counsel for the State has supported the impugned judgment and submitted that there is no illegality or impropriety in the order dated 19.08.2017 passed by the learned 3rd Additional District Judge, Bhagalpur.

It appears that the case was fixed for argument in the court below and the petitioner filed an application for his declaration as juvenile and to send the case records to the Juvenile Justice Board on the basis of Transfer Certificate showing his date of birth as 24.02.1987. It appears that the certificate does not contain the seal of any authority and signature is also appears to be faint and further the date of birth mentioned in the school register also contains overwriting. Apart from that there is no other document in support of the contention of the petitioner. It is well settled that the plea of juvenility can be taken at any stage, as such, even if the case is fixed for argument, the petitioner is within his right to take plea for juvenility, however, the certificate produced by the petitioner in support of his claim does not inspire confidence. However, for the ends of justice, I deem it appropriate to direct the learned Trial Court if the judgment has not been delivered that before proceeding further, call the original documents from the school,



by which, the transfer certificate has been issued to the petitioner and also allow the petitioner as well as other parties to adduce evidence in support of their case and, thereafter dispose of his application as early as possible, preferably within three months.

It is also made clear that parties shall cooperate in disposal of the case.

With the above observation, this application is disposed of.

(Vinod Kumar Sinha, J)

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