

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.31 OF 2014

Maruti Pantanna Teke,
Age : 22 years, Occ. Agri.,
r/o. Ram Nagar, Tq. Shevgaon,
Dist. Ahmednagar ..Appellant

Vs.

State of Maharashtra ..Respondent

Mr. R.N.Chavan, Advocate for appellant (appointed)
Mrs.D.S.Jape, APP for respondent

**CORAM : T.V. NALAWADE AND
R.G. AVACHAT, JJ.
DATE : OCTOBER 11, 2019**

ORAL JUDGMENT (PER R.G. AVACHAT, J.) :-

The challenge in this appeal is to the judgment of conviction and order of sentence dated 08.08.2013 passed by learned Addl. Sessions Judge-2, Beed. The appellant herein has been convicted for the offences of uxoricide and filicide and therefore, sentenced to suffer life imprisonment and pay a fine of Rs.5,000/-. In default of payment of fine, he has

been directed to suffer rigorous imprisonment for six months. The appellant has also been convicted for the offence punishable under Section 201 of Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and pay fine of Rs.1,000/-, in default, to suffer rigorous imprisonment of two months.

2. Pending the appeal, the appellant has raised point that he was a juvenile on the date of commission of offence. He placed reliance on a copy of his school leaving certificate. Defence of juvenility was not taken during the course of trial. This Court, therefore, directed the Sessions Court, Beed, to assign the matter to appropriate Court for making an enquiry in respect of age of the appellant and submit report to this Court.

3. The report has now been received from learned Additional Sessions Judge, Beed. After making enquiry into the issue of juvenility, learned

Additional Sessions Judge has come to the conclusion that the date of birth of the appellant is 14.02.1995 and thus, he was a juvenile on the date of commission of the offence.

4. Learned Counsel for the appellant, relying on the report of enquiry into the juvenility of the appellant, would urge this Court to allow the appeal and set the appellant at liberty. Learned Counsel placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Raju Vs. State of Haryana, 2019 SCC Online SC 258**. Learned Counsel specifically relied upon the observations recorded in paragraph 25 of the judgment in the case of Raju (supra). The observations made by the Hon'ble Supreme Court are:-

“ Criminal Appeal hereby stands allowed and the order of the High Court affirming the conviction and sentence of the Appellant under Section 376(2) (g) of the IPC is set aside. Seeing that the Appellant has already spent 6

years in imprisonment, whereas the maximum period for which a juvenile may be sent to a special home is only 3 years as per Section 15(1)(g) of the 2000 Act, we direct that the Appellant be released from custody forthwith, if he is not required to be detained in connection with any other case."

The aforesaid observations would, undoubtedly, indicate that the appellant therein had spent six years' imprisonment, whereas, the maximum period for which a juvenile can be sent to home is only 3 years as per Section 15(1)(g) of the Juvenile Justice (Care and Protection of Children) Act , 2000 ("Act of 2000", for short).

5. We called upon learned Counsel for the appellant to argue the matter on merits. Learned Counsel submitted that the appellant may be given benefit of the relevant provisions of the Act of 2000.

6. Section 20 of the Act of 2000 reads thus :-

20. Special provision in respect of pending cases.—Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act comes into force in that area, shall be continued in that court as if this Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, forward the juvenile to the Board which shall pass orders in respect of that juvenile in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that a juvenile has committed the offence:

Provided that the Board may, for any adequate and special reason to be mentioned in the order, review the case and pass appropriate order in the interest of such juvenile.

Explanation — In all pending cases including trial, revision, appeal or any other criminal proceedings in respect of a juvenile in conflict with law, in any court, the determination of juvenility of such a juvenile shall be in terms of clause (1) of section 2, even if the juvenile ceases to be so on

or before the date of commencement of this Act and the provisions of this Act shall apply as if the said provisions had been in force, for all purposes and at all material times when the alleged offence was committed.

7. The aforesaid provision mandates that all the proceedings in respect of a juvenile pending in any Court be continued in that Court as if this Act had not been passed and if the Court finds that the Juvenile has committed an offence, it shall record a finding and instead of passing any sentence in respect of the juvenile, forward the juvenile to the Board, which shall pass order in respect of that juvenile in accordance with the provisions of this Act as if it had been satisfied in enquiry under this Court that the juvenile has committed the offence.

8. If we consider the submissions made by learned Counsel for the appellant, it is crystal clear that he does not dispute the impugned judgment of conviction passed against the appellant. Learned

Counsel simply seeks the appellant's release from the jail.

9. Section 15 of the Act of 2000 speaks of the order that may be passed regarding a juvenile, which reads thus :-

15. Order that may be passed regarding juvenile.— (1) Where a Board is satisfied on inquiry that a juvenile has committed an offence, then, notwithstanding anything to the contrary contained in any other law for the time being in force, the Board may, if it so thinks fit,—

(a) allow the juvenile to go home after advice or admonition following appropriate inquiry against and counselling to the parent or the guardian and the juvenile;

(b) direct the juvenile to participate in group counselling and similar activities;

(c) order the juvenile to perform community service;

(d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;

(e) direct the juvenile to be released on probation of good conduct and placed

under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(g) make an order directing the juvenile to be sent to a special home for a period of three years:

Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case, it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.

- (2) ..
- (3) ..
- (4) ..

The provisions of Section 15 of the Act of 2000 would indicate that the maximum period for which a juvenile may be sent to special home is only three years. The

appellant herein has been behind the bars for little over seven and half years. In that view of the matter, it would not be just and proper to direct the appellant to be referred to the Board for dealing with him in terms of Section 15 of the Act of 2000.

10. For the reasons given herein above, we pass the following order :

(1) The appeal is partly allowed. The judgment and order of conviction is maintained. However, the sentence imposed by the trial court on the appellant is hereby set aside. The appellant is of age of 25 years. The appellant has been behind the bars for little over seven years. As the appellant is of the age of 25 years as on today, he need not be sent to the Juvenile Justice Board for being dealt with in accordance with Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2000. The appellant be set at liberty forthwith.

(2) The fees of the learned Counsel appointed for the appellant is quantified at Rs.6,000/- to be paid by the High Court Legal Services Sub Committee, Aurangabad.

[R.G. AVACHAT, J.]

[T.V.NALAWADE, J.]

kbp