

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Revision No.1113 of 2018(O&M)

Date of Decision: December 13, 2019

Praveen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Prithvi Raj Yadav, Advocate
for the applicant - petitioner.

Mr.Saurav Girdhar, DAG, Haryana.

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HARINDER SINGH SIDHU, J.

The applicant-petitioner herein was tried for commission of offence punishable under Sections 377 and 506 IPC in case bearing FIR No.33 dated 25.03.2010 registered at Police Station Rohrai, District Rewari and was convicted and sentenced to three years rigorous imprisonment for the offence under Section 377 IPC and two years rigorous imprisonment for the offence under Section 506 IPC, by learned Judicial Magistrate Ist Class, Kosli on 21/24.08.2015. Both the sentences were ordered to run concurrently. Appeal filed by him was dismissed by learned Additional Sessions Judge, Rewari vide judgment dated 8.2.2018.

The petitioner filed the instant Revision Petition challenging the said judgment of conviction and order of sentence passed by learned trial Judge and judgment recorded by learned Appellate Court.

During the pendency of the revision petition, the petitioner filed

an application under Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (for short, “2007 Rules”) read with Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, “2015 Act”) for declaring him as 'juvenile' and to set-aside order dated 26.04.2011 passed by the Juvenile Justice Board, Rewari, whereby, he was declared major on the date of commission of the offence. The said application bearing CRM-10656-2018 was disposed vide order dated 25.01.2019. The order dated 26.04.2011 passed by the Juvenile Justice Board, Rewari was set aside. The Board was asked to make an enquiry regarding the age of the petitioner. Pursuant thereto, the Juvenile Justice Board submitted its report, as per which it was determined that the petitioner was 17 years 03 months 24 days on 24.03.2010. Accordingly, he was less than 18 years of age on the day of commission of the said offence.

The order dated 25.01.2019 was impugned by the complainant by filing Special Leave Petition (Criminal) Diary No.13110 of 2019 which was disposed of on 22.07.2019. Considering that after the passing of the order dated 25.01.2019 the Juvenile Justice Board had passed an order declaring the petitioner herein as juvenile, the SLP was got dismissed as withdrawn with liberty to the petitioner therein to approach the appropriate forum in accordance with the 2015 Act to challenge the order of the Juvenile Justice Board and also to file a fresh SLP if she was aggrieved.

Nothing has been come on record to indicate that the order of the Juvenile Justice Board declaring the petitioner herein as 'juvenile' has been challenged or set aside.

Thus, it is held that the petitioner was a 'juvenile' in terms of the

The conviction of the appellant of the petitioner is upheld, but the sentence is set aside. The matter is remitted to the jurisdictional Juvenile Justice Board for determining the quantum of sentence by treating the petitioner as 'juvenile'. The concerned Juvenile Justice Board would also take into consideration the sentence already undergone by the petitioner.

December 13, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No