

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-721-2017 (O&M)
Date of Decision:20.09.2019

Ravi

...Petitioner

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sajjan Singh, Advocate for the petitioner.
Mr.Kuldeep Choudhary, Advocate for
Mr.Anshuman Dalal, Advocate for the complainant.

ANIL KSHETARPAL, J.

Through the present petition, correctness of the judgment dated 12.01.2017 passed by the learned Additional Sessions Judge, Rohtak, has been challenged.

By way of impugned order, the Court of Sessions has allowed the appeal filed under Section 101 (2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015') by setting aside the order passed by the Juvenile Justice Board, Rohtak with a direction to the Board to make the preliminary assessment afresh in accordance with Section 15 of the Act of 2015.

The petitioner is an accused in FIR No.67 dated 28.04.2016 under Section 302/499/120-B/34 IPC and under Sections, 25/54/59 and 30/54/59 of the Arms Act. The petitioner at the time of alleged occurrence was between the age of 16 to 18 years. The Court of Sessions has found that since the order passed by the Juvenile Justice Board does not reflect that the Board conducted preliminary assessment with regard to the child in

conflict with the law in accordance with Section 15 of the Act, therefore, the Court of Sessions directed the Board to make a fresh preliminary assessment after taking due extension from the learned Chief Judicial Magistrate, Rohtak.

This Court has heard the learned counsel for the parties.

Learned counsel for the petitioner has submitted that the learned Court of Sessions has committed an error, as it had no power to remand the case. He has further submitted that as per Section 14 (4) of the Act of 2015, only the Chief Judicial Magistrate has a power to extend the time for the reasons to be recorded and therefore, the order is erroneous.

This Court has considered the submissions of learned counsel for the petitioner and carefully gone through the Act of 2015.

Section 101 of the Act of 2015 provides for an appeal against the order made by the Committee or the Board under the Act. Once there is a provision for filing an appeal, the power to remand a case is inherent unless the appellate court is specifically debarred. Once the appellate court is hearing the appeal and examining the correctness of the order impugned therein, the appellate court has power to set aside, modify, alter, remit for fresh consideration and seek a report on a particular point or uphold the order passed. The power to set aside includes power to remit the matter back after setting aside the order passed.

This Court does not find substance in the argument of learned counsel for the petitioner that since Section 101 of the Act of 2015 does not make a provision for remand or remitting the matter back to the Board, therefore, the appellate court had no power of remand.

In the considered view of this Court, such argument is too far

fetches and hence, liable to be rejected.

As regards second submission, on careful reading of the order passed by the learned Court of Sessions, it is apparent that the Court of Sessions had only made an observation directing the Juvenile Justice Board to seek extension of time from learned Chief Judicial Magistrate. Such order cannot be read in a manner that a direction has been issued to extend the time. A Chief Judicial Magistrate is well within his power to pass order after considering all aspects of the case. Hence, there is no ground to interfere. Dismissed.

Pending application(s), if any, shall also stand disposed of, in terms thereof.

20.09.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No