

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.106 of 2019

Arising Out of PS. Case No.-91 Year-2016 Thana- BAUSI District- Purnia

Karanvir Singh, male by gender, aged about 19 years, son of Sri Chandradev Singh, Resident of Village - Bhadeia Bhojpur, P. S. Ara, District - Ara (Bihar)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Advocate Mr. Saket Tiwary, Advocate
For the Respondent/s	:	Mr. Suresh Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 14-02-2020

Heard learned counsel for the petitioner and learned counsel for the State.

On 31.01.2020 after hearing learned counsel for the petitioner this Court passed the following order:-

“It is the contention of learned counsel for the petitioner that the Juvenile Justice Board as well as the learned appellate court failed to appreciate the actual import of Rule 12(3)(b) of the Juvenile Justice Rules, 2007. The submission of learned counsel for the petitioner is that if the medical board had found the age of the petitioner in between 20-21 years on the date of examination and the Juvenile Justice Board itself was of the view that on the date of alleged occurrence the age of the petitioner would be in between 18-19 years, then following the judgment of the Hon’ble Supreme Court in the case of Darga Ram @ Gunga Vs. State of Rajasthan reported in (2015) 2 SCC 775, the benefit of one year should have been given to the petitioner. In such circumstance, the age of the petitioner would come down to 17 years on the alleged date of occurrence.

Learned counsel for the petitioner submits that he would place on record the copy of the medical report for consideration on the next date of hearing.



Let this matter be listed on 10th February, 2020 under the same heading maintaining its position.

In the meantime, the respondent-State shall also get prepared on the issue raised by learned counsel for the petitioner.”

After the aforesaid order was passed, a supplementary affidavit has been filed on behalf of the petitioner enclosing therewith the medical report of the medical board who determined the age of the petitioner on 13.06.2018. According to this report the age of the petitioner was assessed in between 20 years to 21 years as on 13.06.2018.

Learned counsel for the petitioner has once again reiterated that the date of occurrence being 20.06.2016, on the date of alleged occurrence the age of the petitioner would be in between 18 – 19 years and this is the fact where Rule 12(3)(b) of the Juvenile Justice Rules, 2007 would come into play.

Learned counsel for the State has though opposed the application but as usual in a very feeble kind of opposition without there being any material to oppose the same.

This Court has on the last date taken note of the judgment of the Hon’ble Apex Court in the case of **Darga Ram alias Gunga Vs. State of Rajasthan** reported in **(2015) 2 SCC 775** the relevant paragraph of the said judgment being paragraph nos. **15, 16 & 17** are being taken note of hereunder for ready reference:-



“15. Rule 12(3)(b) reads as under:

“12. **Procedure to be followed in determination of age.** – (1)-(2) * * *

(3) ... (b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year, and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.”

16. The medical opinion given by the duly constituted Board comprising Professors of Anatomy, Radiodiagnosis and Forensic Medicine has determined his age to be “about” 33 years on the date of the examination. The Board has not been able to give the exact age of the appellant on medical examination, no matter the advances made in that field. That being so, in terms of Rule 12(3)(b) the appellant may even be entitled to the benefit of fixing his age on the lower side within a margin of one year in case the Court considers it necessary to do so in the facts and circumstances of the case. The need for any such statutory concession may not however arise because even if the estimated age as determined by the Medical Board is taken as the correct/true age of the appellant he was just about 17 years and 2 months old on the date of the occurrence and thus a juvenile within the meaning of that expression as used in the Act aforementioned. Having said that we cannot help observing that we have not felt very comfortable with the Medical Board estimating the age of the appellant in a range of 30 to 36 years as on the date of the medical examination.



17. The general rule about age determination is that the age as determined can vary plus minus two years but the Board has in the case at hand spread over a period of six years and taken a mean to fix the age of the appellant at 33 years. We are not sure whether that is the correct way of estimating the age of the appellant. What reassures us about the estimate of age is the fact that the same is determined by a Medical Board comprising Professors of Anatomy, Radiodiagnosis and Forensic Medicine whose opinion must get the respect it deserves. That apart, even if the age of the appellant was determined by the upper extremity limit i.e. 36 years the same would have been subject to variation of plus minus 2 years meaning thereby that he could as well be 34 years on the date of the examination. Taking his age as 34 years on the date of the examination he would have been 18 years, 2 months and 7 days on the date of the occurrence but such an estimate would be only an estimate and the appellant may be entitled to additional benefit of one year in terms of lowering his age by one year in terms of Rule 12(3)(b) (supra) which would then bring him to be 17 years and 2 months old, therefore, a juvenile.”

Apparently, in the aforesaid case the Hon’ble Apex Court took into consideration the upper extremity limit i.e. 36 years and then subject to variation of plus minus 2 years the age of the appellant was taken as 34 years on the date of the examination and then it was found that he would have been 18 years 2 months and 7 days on the alleged date of occurrence whereupon he would be entitled to additional benefit of one year in terms of lowering his age by one year under Rule 12(3)(b).

In the present case, on the date of his medical examination the upper age limit of the petitioner has been found at 21 years and plus minus 2 years thereof it would



come to 19 years. The occurrence is of 20.06.2016 i.e. 2 years back, therefore, on the date of the alleged occurrence he would be around 17 years of age and still Rule 12(3)(b) if applied, there is no reason to take any other view than that the petitioner would be entitled to be declared juvenile under the provisions of the Act of 2015.

In view of the aforesaid discussions, the impugned order is set-aside and the application is allowed to the extent that the petitioner would be taken as a juvenile.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	AFR
CAV DATE	
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