

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1255 of 2019

Arising Out of PS. Case No.-195 Year-2018 Thana- KONCH District- Gaya

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XX

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No. 2, Adv.
For the Respondent/s : Mr. Anant Kumar 1, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 09-09-2020

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

2. Though the petitioner has given full description in
the application, it would be inappropriate to disclose his identity
in view of the statutory requirement of Section 74 of the
Juvenile Justice (Care and Protection of Children) Act, 2015
(for short 'the Act of 2015'). He is being referred to in the cause
title as XX.

3. This revision application under Section 102 of the
Act of 2015 has been filed by the petitioner, challenging the
order dated 08.07.2019 passed by learned 9th Additional District
& Sessions Judge, Gaya, in Criminal Appeal No. 5 of 2019/ 32
of 2019 (SJ) arising out of Konch P.S. Case No. 195 of 2018



corresponding to Misc. Case No. 29 of 2019, which was registered for the offences punishable *inter alia* under Sections 395, 397 and 376-D of the Indian Penal Code as well as Section 6 of the Protection of Children from Sexual Offences Act, 2012.

4. In the instant case, the first information report was registered on 14.06.2018. The petitioner was taken into custody on 22.06.2018. He has been declared a juvenile in conflict with law by the Juvenile Justice Board, Gaya, on 20.02.2019. His application for grant of bail was rejected by the Juvenile Justice Board, Gaya, vide order dated 28.03.2019.

5. Being aggrieved by the aforesaid order dated 28.03.2019 passed by the Juvenile Justice Board, Gaya, the petitioner filed an appeal vide Criminal Appeal No. 5 of 2019/32 of 2019 (SJ) but the same was rejected by the learned 9th Additional District & Sessions Judge, Gaya vide order dated 8.07.2019. Against the said order dated 8.07.2019, the instant revision application has been filed before this Court.

6. It would be relevant to note here that Section 101 of the Act of 2015 deals with appellate jurisdiction of the court. Section 101(1) of the Act of 2015 provides that subject to the provisions of the Act, any person aggrieved by an order of the Board, may prefer an appeal before the Children's Court within



30 days from the date of such order before the Children's Court.

7. Thus, the right to appeal, subject to the provisions of the Act of 2015, is vested with the child in conflict with law, the victim and the State under the aforesaid provision before the Children's Court within 30 days.

8. Section 2 of the Act of 2015 defines various terms. The term 'Children's Court' has been defined under Section 2(20) as under :-

“Children's Court” means a court established under the Commissions for Protection of Child Rights Act, 2005 or a Special Court under the Protection of Children from Sexual Offences Act, 2012, wherever existing and where such courts have not been designated, the Court of Sessions having jurisdiction to try offences under the Act.”

9. In the State of Bihar, the court of Additional District & Sessions Judge 1st, of all the judgship has been designated as Children's Court under the Commission for Protection of Child Rights Act, 2005.

10. In that view of the matter, the appeal preferred by the petitioner under Section 101(1) of the Act of 2015 was not



maintainable before the court of Additional District & Sessions Judge 9th, Gaya.

11. In that view of the matter, the impugned order dated 08.07.2019 passed by the learned 9th Additional District & Sessions Judge, Gaya in Criminal Appeal No. 5 of 2019/ 32 of 2019 (SJ) is without jurisdiction. Accordingly, the same is set aside. The matter is remitted back to the court below.

12. Learned 9th Additional District & Sessions Judge, Gaya is directed to transfer the entire record of the case to the court of Additional District & Sessions Judge 1st, (Children's Court forthwith.

13. Once the record reaches the court of Additional District & Sessions Judge 1st, Gaya, it shall issue notice to the parties and after service of notice and hearing the parties afresh, decide the appeal in accordance with law as early as possible, preferably within three months.

14. With the aforesaid observations and directions, the revision application stands allowed.

15. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-



- (i) The judgment, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Sr. Secretary.
- (ii) The corrected copy of the judgment shall be transmitted by me from my email id to the Sr. Secretary, which shall be treated to be an authentic copy of the judgment passed by this Court in the present proceeding.
- (iii) Hard copy of the judgment duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let a copy of the judgment be sent to Mr. Manish Kumar No.2, learned counsel for the petitioner also on his email.
- (v) Let steps be taken by the Sr. Secretary/registry for uploading of the present judgment without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10-09-2020
Transmission Date	10-09-2020

