

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 700 of 2015**

1. Vikash Vishwas S/o Late Sapan Vishwas, aged about 22 Years, R/o Purana Market, Bangali Camp Bacheli, Police Station Bacheli, Civil and Revenue District Dantewada (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, through Station House Officer, Police Station, Bacheli, Civil and Revenue District Dantewada (C.G.)

---- Respondent

For Appellant	:	Shri Kishore Narayan, Advocate.
For Respondent/State	:	Shri Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Hon'ble Shri Justice Gautam Chourdiya****Judgment on Board by Shri Prashant Kumar Mishra J.****02/03/2020**

- 1) This appeal is filed under section 374(2) of Code of Criminal Procedure, 1973 against the judgment of conviction and order of sentence dated 15/05/2015 passed by Additional Session Judge (F.T.C.) Dakshin Bastar, Dantewada (C.G.) in Session Trial No. 12/2013; whereby the appellant stands convicted and sentenced as under:-

Conviction	Sentence
U/s. 302 of Indian Penal Code (in short "IPC")	Life Imprisonment and fine of Rs. 100/- in default of payment of fine additional R.I. for 1 month

- 2) The conviction and sentence is for committing murder of deceased Kumari Laxmi during the intervening night of 11-12/10/2012.
- 3) Initially, the charge sheet was filed and the appellant was tried for committing gang rape alongwith 2 other juvenile and thereafter committing murder, however, he has been acquitted of the charge for committing gang rape but has been convicted for committing

murder only.

- 4) During pendency of the appeal the appellant raised a plea of juvenility claiming that his date of birth is 03/02/1995 as mentioned in Birth Certificate, Mother & Child Care Card (Jachcha Baccha Card) and other documents. The appellant claimed direction under Section 9(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015. The Trial Court was directed to make an inquiry and submit a report about the juvenility of the appellant. Since the Trial Court has returned a report finding the appellant to be less than 18 years of age on the date of incident, his date of birth being 03/02/1995, we are not referring to the detailed evidence of the case on the basis of which the appellant has been convicted.
- 5) Having perused the report sent by the Trial Court regarding juvenility of the appellant assigning cogent reasons as to why his date of birth 03/02/1995 deserves to be accepted on the basis of his Birth Certificate, Mother and Child Care Card etc., we accept the report and hold that the appellant was a juvenile on the date of offence.
- 6) In view of above, the appellant being a juvenile, the impugned judgment of conviction and sentence rendered by the Trial Court is set aside and as per Section 7A(2) of the Juvenile Justice (Care and Protection of Children) Act, 2000 the matter is remitted back to the jurisdictional Juvenile Justice Board for passing necessary orders. The appellant being in jail w.e.f. 14/10/2012 the Juvenile Justice Board is directed to decide the matter within a month from the date of production of the appellant before the Board. The appellant shall be presented before the Board on 18/03/2020. Registry to send the record of the case to the concerned Juvenile Justice Board forthwith.

-Sd/-
(Prashant Kumar Mishra)
Judge

-Sd/-
(Gautam Chourdiya)
Judge