

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 393 of 2020

- Ashu @ Ashutosh Kunder S/o Shri Pradeep Kunder Aged About 19 Years R/o Shastri Market , Near Atta Chakki, Banstal, Raipur , District Raipur Chhattisgarh (Accused)

---- Petitioner

Versus

- State Of Chhattisgarh Through District Magistrate Raipur Chhattisgarh.

---- Respondent

For Petitioner : Mr. Rahim Ubwani, Advocate
 For State/ Respondent : Mr. Rahul Jha, Government Advocate

Hon'ble Shri Justice Sanjay K. AgrawalOrder on Board10/02/2020

1. The present petition filed under Section 482 of the Code of Criminal Procedure (henceforth 'Cr.P.C.') is directed against the impugned order dated 27/07/2018 (Annexure P/1) passed by learned 7th Additional Sessions Judge, Raipur (C.G.) in Special Case No. 302/2017 dismissing the petitioner's application for sending the matter to the learned Juvenile Justice Board, Raipur.

2. Learned counsel for the petitioner would submit that learned revisional Court has committed

illegality in affirming the order passed by learned Juvenile Justice Board.

3. I have heard learned counsel for the petitioner, considered his submission made herein-above and went through the record with utmost circumspection.

4. In the first round of litigation, this Court has passed an order in CRMP No. 262/2018 dated 26/03/2018 in which this Court has clearly held that as per the petitioner's school certificate, his date of birth is 10/01/1999, as such, it cannot be held that he is a juvenile and therefore, affirmed the order of the two Courts below. Thereafter, again an application was filed by the petitioner claiming that he is a juvenile as per the ossification test conducted by the Central Jail, Raipur on 05/05/2018 which has been rejected by the learned 7th Additional Sessions Judge, Raipur in view of the provisions contained under Section 94 of Juvenile Justice (Care and Protection of Children) Act, 2015.

5. The said finding recorded by learned revisional Court holding that petitioner is not a juvenile is a finding of fact based on evidence available on record. This Court in Cr.M.P. No. 262/2018 vide order dated 26/03/2018 has already held that

petitioner is not a juvenile, as such, the revisional Court has rightly dismissed the application filed by the petitioner.

6. In this case, the chargesheet has been filed on 13/10/2017 and after lapse of more than two years, the trial has not been completed, whereas it ought to have been completed within one year from the date of taking cognizance as mandated by Section 35(2) of the Protection of Children from Sexual Offences Act, 2012. The Additional Sessions Judge is directed to proceed and conclude the trial expeditiously.

7. Accordingly, the petition filed under Section 482 of the Code of Criminal Procedure deserves to be, and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge