

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.532 of 2021

Arising Out of PS. Case No.-418 Year-2020 Thana- DEEPNAGAR District- Nalanda

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DHEERAJ KUMAR @ SUNNY KUMAR S/o Arun Mahto @ Arun Prasad
R/o village- Sri Ram Nagar, Korai, P.S.- Deepnagar, District- Nalanda
through the natural guardianship of his mother namely Muny Devi, aged
about 40 years, (female), W/o Arun Mahto @ Arun Prasad, R/o village- Sri
Ram Nagar, Korai, P.S.- Deepnagar, District- Nalanda

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar Verma, Advocate
For the Respondent/s : Mr.Md. Fahimuddin, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-11-2021 Heard learned counsel for the petitioner and Mr. Md.
Fahimuddin, learned A.P.P. for the State.

This Revision Application has been preferred for setting aside the order dated 10.06.2021 passed by learned A.D.J.-1st – cum – Special Judge, Nalanda at Biharsharif in Children Case No. 08/2021 by which the learned Special Judge has passed an order under Section 19 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the “Act of 2015”) and thereby affirmed the decision of the Juvenile Justice Board, Biharsharif, Nalanda to send the records of J.J.B. Case No. 49/2021 for trial of the petitioner as an adult. The order dated 24.03.2021 passed by the learned Juvenile Justice Board, Biharsharif, Nalanda is also under challenge.



Petitioner, in the present case, has been apprehended in connection with Deepnagar P.S. Case No. 418/2020, G.R. No. 6630/2020. The allegation against him is that he had assaulted the father of the informant with a knife blow on the left side of his chest and then repeated the knife blow on the right side thigh at Rahul Kumar causing injury to him. The petitioner was caught by the local public while trying to flee away.

The Juvenile Justice Board having noticed the matriculation certificate of the petitioner containing his date of birth as 28.11.2003 declared the petitioner a juvenile on the date of the alleged occurrence i.e. 05.12.2020. He was a little more than 17 years. Thereafter, the Juvenile Justice Board (in short the 'Board') conducted a preliminary assessment in terms of Section 15 of the Act of 2015 with the help of a Psychiatrist. In ultimate analysis, the Board found that the petitioner fully understood the gravity of the offence committed by him and the consequences thereof. He was found fully fit both physically and mentally to understand the consequences. In view of the findings with regard to his mental and physical conditions, the learned Board found it just and proper to send the records to the Children Court for trial of the petitioner as an adult.

Later on the Children Court also considered this



aspect of the matter as to whether there is a need for trial of the petitioner as an adult as per the provisions of the Code of Criminal Procedure. The proceeding of the Children Court was conducted during the pandemic period through Whatsapp video call. Petitioner appeared through the virtual platform and the learned Presiding Officer of the Children Court interacted with him and found that the petitioner was looking matured both physically as well as mentally. On being fully satisfied that the petitioner fulfills the parameters for his trial as an adult, the learned Children Court/Special Judge, Bihar Sharif passed the order dated 10.06.2021 accepting the records sent by learned Juvenile Justice Board.

Learned counsel for the petitioner has assailed the order of learned Special Judge in Children Case No. 08 of 2021 as also the order passed by the learned Juvenile Justice Board. The only submission which could be advanced on behalf of the petitioner is that the learned Special Judge, Bihar Sharif is not justified in recording his satisfaction as regards the maturity of the petitioner both physically as well as mentally through the Whatsapp video call. According to learned counsel, for purpose such assessment physical presence of the petitioner was a must and it is not possible to judge the mental condition of a person



while interacting with him through virtual platform.

Learned counsel for the petitioner has though assailed the orders as above but no procedural illegality in form of violation of principles of natural justice or by way of violation of any mandatory provision of law have been pointed out to this Court.

Learned A.P.P. for the State has opposed this application. It is submitted that the petitioner is admittedly above 16 years of age, therefore, his case was required to be considered in the light of the provision contained under Section 15 of the Act of 2015. Learned A.P.P. submits that the interest of a juvenile as regards his trial as an adult has been fully protected by the legislatures by providing two safety valves at two different stages and forum. Firstly, it is the Board who considers whether a juvenile above 16 years of age and involved in commission of heinous and serious offence is mentally fit to understand the gravity of the offence committed by him and consequences thereof and based on that the Board may refer the records to the Children Court for trial of the juvenile as an adult, thereafter at the second stage, acting in terms of Section 19 of the Act of 2015 again the Children Court has to decide whether the juvenile is to be tried as an adult. In his submissions, in this



case, on both the occasions it has been found that the petitioner was physically as well as mentally fit to understand the consequences of the offence committed by him. A report from the Psychiatrist was also obtained and the same was looked into by the Board.

As regards the submission of learned counsel for the petitioner that securing presence of the petitioner through Whatsapp video call was not justified for purpose of assessing his mental condition, learned A.P.P. submits that such submissions are required to be rejected at the outset. It is submitted that appearance of an accused through virtual platforms is now legally recognized by carrying amendments in the provisions of the Cr.P.C., further during the Covid-19 pandemic the courts of law as well as different forums were engaged in hearing matters through virtual platforms and the forums such as the Children Court in this case was also acting through the Whatsapp video call which was a fully recognized method of working of the Court during those days. It was also a duly recognized mode of conducting the court and the same was as per direction of the Hon'ble High Court in its supervisory jurisdiction. Thus, interference with the order of learned Special Judge, Biharsharif on this ground alone would not be justified



and any interference by this Court on this ground alone is likely to be cited as a precedence before any other court and forum.

Having heard learned counsel for the petitioner and learned A.P.P. for the State and upon perusal of the records this Court is fully satisfied that the learned Board has applied its judicious mind while assessing the mental condition of the petitioner. The Board has also been assisted by a Psychiatrist and it is only after being satisfied with the opinion of the Psychiatrist and with the physical as well as mental condition of the petitioner the Board thought it just and proper to send the records to the Children Court. No illegality or infirmity has been pointed out by learned counsel for the petitioner in the order of the Juvenile Justice Board.

The challenge thrown to the order passed by learned Children Court is though taken note of hereinabove, this Court is in agreement with the submission of learned A.P.P. for the State. The order dated 10.06.2021 has been passed during the Covid-19 pandemic period when all subordinate Courts and Tribunals including the Children Court/A.D.J. - 1st – cum – Special Judge were functioning through virtual mode and such virtual modes have been legally recognized by this Court, the Sub-ordinate courts were running as per direction of the High



Court in its supervisory and administrative side. The High Court has framed rules to conduct the court proceeding through video conferencing. During pandemic period all activities including hearing of cases has taken place. The Presiding Officer of the Court has interacted with petitioner before recording his satisfaction. On the face of it, this Court finds no reason to interfere with the impugned orders.

This Revision Application is, thus, dismissed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

