

CRR 1714 of 2020
(Through Video Conference)

In Re: - An application for revision under Section 102 of the Juvenile Justice Act, 2015 read with Section 397 and Section 401 of the Code of Criminal Procedure, 1973.
And

In the matter of: Smt. Munni Devi
.... Petitioner

Mr. Sourav Bhattacharyya

... For the Petitioner

Mr. Madhusudan Sur,
Mr. Dipankar Pramanick

...For the State

The principal grievance of the petitioner in this revisional application is in relation to an order passed in Sessions Case no. 40 of 2018 dated November 19, 2020, by the learned Additional District and Sessions Judge (In-Charge), Bench-II, City Sessions Court, Calcutta, whereby the learned Judge had rejected the prayer of the petitioner for categorising the alleged crime as a “serious offence” within the meaning of Juvenile Justice (Care and Protection of Children) Act, 2015.

The learned advocate appearing for the petitioner relies upon the judgment of the Supreme Court reported at **(2020) 2 SCC 787 [Shilpa Mittal Vs. State (NCT of Delhi)]**. It has been strenuously argued that in absence of a prescribed minimum punishment in the Indian Penal Code, the offence should be categorised as a “serious offence” and not a “heinous offence” within the meaning of the said Act.

There cannot be any quarrel to the proposition of law as argued learned Advocate for the petitioner. The Supreme Court in **Shilpa Mittal (Supra)** held that when the relevant statute does not prescribe a minimum punishment for an offence and the law is silent on that, the offence should be categorised as “serious offence”.

In the present case, the petitioner has been charged, inter alia, with an offence alleged to have been committed under Section 302 of the Indian Penal Code. The Section 302 of the Indian Penal Code reads as follows: -

“302. Punishment for murder. – whoever commits murder shall be punished with death, or {imprisonment for life}, and shall also be liable to fine”

The plain reading of the aforesaid provision makes it clear that whoever commits murder shall be punished either with death or imprisonment for life and additionally, may also be liable to fine.

In my reading, a competent court cannot impose a lesser punishment than life imprisonment upon an accused against whom a charge under Section 302 has been proved. In other words, life imprisonment is the minimum punishment for an offence committed under Section 302 of Indian Penal Code.

In that view of the matter, I do not see any illegality in the order impugned. The learned Judge was right in holding that the petitioner should be tried as an adult for an offence alleged to have been committed under Section 302 of the Indian Penal Code.

However, I find substance in the submission that during the course of the trial, the identity of the juvenile should not be disclosed

by using his name. The learned trial Judge while conducting the case shall bear that in mind.

Accordingly, the revisional application being CRR 1714 of 2020 is dismissed.

(Kausik Chanda, J.)