

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO.15 of 2021.

ROSHAN ROHIDAS

VALAVALKAR

.... Applicant.

VS

STATE, REP. BY THE

PUBLIC PROSECUTOR

.... Respondents.

Shri Arun Bras Desa and Shri Sahil Sardessai, Advocates for the applicant.

Shri P. Faldessai, Addl. Public Prosecutor for the respondents.

Coram:- M. S. JAWALKAR, J.

Date:-23rd February, 2021.

P.C.:-

The petitioner herein challenged the order passed by the Juvenile Justice Board North Goa dated 8.10.2020 as well as the order passed by the Children's Court for the State of Goa dated 3.2.2021.

2. Facts of the case are as follows:-

The petitioner had given the vehicle on hire basis without obtaining permission from the RTO which is an offence under Motor Vehicles Act. It has come on record of Juvenile Justice Board from the CCL that the said two vehicles which were attached, were taken on rental basis and they have to pay on day to day basis.

3. The application for the release of vehicle came to be rejected. Thereafter the appeal came to be filed before the Children's Court, the Children's Court also dismissed the appeal on the ground that the Children Court has no jurisdiction. The the learned Appellate Court dismissed the appeal on the ground that the issue involved was regarding

release of vehicle and not in respect of the rights of the children and in view thereof the appeal is not maintainable.

4. Heard Shri S. Sardessai, the learned counsel for the petitioner and Shri P. Faldessai, the learned Addl. Public Prosecutor for the respondents.
5. In view of the relevant provision of Goa Children's Act, 2003 i.e.

30. Jurisdiction of the Children's Court. -

- (1) Subject to the provisions of this Act, the Children's Court shall have jurisdiction to try all offences against children whether such offence is specified under this Act or not,
- (2) (omitted)
- (3) The powers of the Competent Authority and the Special Officers under this Act shall not fall within the jurisdiction of the Children's Court.

Protection of Children from Sexual Offences Act 2012
Chapter VII Special Courts

28. Designation of Special Courts.

1. For the purposes of providing a speedy trial, the State Government shall in consultation with the Chief Justice of the High Court, by notification in the Official Gazette, designate for each district, a Court of Session to be a Special Court to try the offences under the Act:

Provided that if a Court of Session is notified as a children's court under the Commissions for Protection of Child Rights Act, 2005 or a Special Court designated for similar purposes under any other law for the time being in force, then, such court shall be deemed to be a Special Court under this section.

2. While trying an offence under this Act, a Special Court shall also try an offence (other than the offence referred to in sub-section(1), with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

6. In view of these provisions, the Children's Court have jurisdiction to try all the offences against the children whether such offence is specified

under this Act or not. In view of the provisions under the Protection of Children from Sexual Offences Act 2012, the Children's Court is deemed to be a Special Court. In view of Section 28(2), the Special Court shall also try an offence other than the offence referred to in sub-section(1) with which accused may under Cr. P.C. be charged at the same trial. Certainly therefore, Children's Court is having jurisdiction to try the appeal against the order of rejection of release of vehicle involved in the offence. Order passed by the learned Children's Court is erroneous, illegal and liable to be quashed and set aside.

7. Accordingly, I proceed to pass the following order:-

O R D E R

- i. Writ Petition is allowed.
 - ii. Order passed by the Children's Court dated 3.2.2021 in Criminal Appeal No.2/2020 is hereby quashed and set aside.
 - iii. The learned Children's Court is directed to restore the appeal to its original number and to decide afresh on its own merits as expeditiously as possible and preferably within a period of one month from the date of receipt of this order.
 - iv. Parties to appear before the Children's Court on 1.3.2021 at 2.30 p.m.
8. Parties to act on the duly authenticated copy of this order.

M. S. JAWALKAR, J.