

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.330 of 2021

Arising Out of PS. Case No.-6 Year-2020 Thana- MAHILA P.S. District- Vaishali

ANIKET KUMAR Son of Madan Mohan Singh Resident of Village - Harauli,
Police Station - Hajipur Sadar, District - Vaishali.

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. Tarun Devi W/o Amin Roy R/o Village - Harauli, P.S.- Hajipur Sadar,
District - Vaishali.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate Mr. Ravi Prakash, Advocate
For the Stat	:	Mr. Nityanand, APP
For the O.P.No.2:	:	Mr. Madanjeet Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-07-2022 Learned counsel for the petitioner undertakes to remove the defects, as pointed out by office, within two weeks from today.

Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

Petitioner, in the present case, is aggrieved by and dissatisfied with the judgment and order dated 15.01.2021 passed in Criminal Appeal No. 17 of 2020 passed by learned Sessions Judge, Hajipur, Vaishali in connection with Hajipur Mahila P.S. Case No. 06 of 2020 corresponding to G.R. No. 4749/2020, T.R. No. 379/2020 registered for the offence under Sections 341, 323, 376(DA), 506, 34 of the Indian Penal Code and Section 4, 6 of the POCSO Act by which the learned



Sessions Judge had dismissed the appeal and affirmed the order dated 17.03.2020 passed by the learned Juvenile Justice Board, Vaishali at Hajipur.

Learned counsel for the petitioner submits that on perusal of the impugned order passed by the Juvenile Justice Board, it would appear that on 17.03.2020 the school admission register was produced by the Headmaster of the school. He was himself present with the register. Both parents of the petitioner were present, the Headmaster was examined but thereafter instead of considering the materials on the record the Board proceeded to pass an order saying that there are differences in the date of birth, therefore, for purpose of determination of age a medical board be constituted.

Learned counsel submits that even school admission register has not been looked into and the previous orders passed by the Juvenile Justice Board would show that the Headmaster had appeared with the register on the direction of the Board itself.

Learned counsel for the petitioner submits that the Headmaster had deposed before the Juvenile Justice Board but instead of recording his deposition completely, in the form of deposition the Board proceeded to record it's opinion. It is, thus,



submitted that why and in what manner the deposition of the Headmaster has been recorded is not known.

Learned counsel for the informant–opposite party agrees that in the form of deposition of the witness, in fact, the Board has recorded it’s opinion which is something peculiar and in normal legal procedures it should not have happened.

Having regard to the submissions noted hereinabove and the materials available on the record, this Court finds that the learned Juvenile Justice Board has not at all considered the school admission register and other materials which were there on the record. The order dated 17.03.2020 is not a reasoned order and the learned Appellate Court could not appreciate this aspect of the matter as a result whereof the appeal was also dismissed. This Court is of the considered opinion that the impugned order cannot sustain and is liable to be set-aside.

Accordingly, the impugned order dated 15.01.2021 passed by learned Sessions Judge, Vaishali at Hajipur in Criminal Appeal No. 17 of 2020 is hereby set-aside. The matter is remitted to the learned Juvenile Justice Board, Vaishali at Hajipur to consider the age determination application of the petitioner by giving appropriate opportunity to the petitioner as well as the informant to adduce their respective evidences.



Let the entire exercise be completed within a period of three months from the date of receipt/communication of a copy of this order.

This application stands disposed off accordingly.

Certified copy of the order will be made available only after removal of the defects, as pointed out by office.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

