

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.344 of 2021

Arising Out of PS. Case No.-7 Year-2010 Thana- GAYA MUFASIL District- Gaya

ANITA DEVI, Wife of Srikant Sharma, Resident of Mohalla - Orhanpur Compound, Lakhibag, P.S. - Muffasil, District - Gaya.

... .. Petitioner

Versus

1. The State of Bihar
2. Ramakant Kumar @ Bachchu, Son of Arun Sharma, Resident of Village - Dadpur, P.S. - Goh, District - Aurangabad, At present Resident of Mohalla - Orhanpur Compound, Lakhibag, P.S. - Muffasil, District - Gaya.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Mrigendra Kumar, Advocate
For the Respondent/s	:	Mr.Pawan Kumar Chaurasia, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 20-06-2022 Heard learned counsel for the petitioner and Mr. Pawan Kumar Chaurasia, learned A.P.P. for the State.

Petitioner in the present case is aggrieved and dissatisfied with the judgment dated 27th February, 2020 passed by the 1st Additional Sessions Judge, Gaya in Cr. Appeal No. 85 of 2013/01 of 2017. By the impugned order, the learned appellate court has refused to interfere with the order dated 24.10.2013 passed by the Juvenile Justice Board, Gaya (in short 'J.J.B.') in Muffasil P.S. Case No. 07 of 2020 whereby and whereunder J.J.B has held that respondent no. 2 Ramakant Kumar was juvenile at the time of alleged occurrence.

Learned counsel for the petitioner submits that earlier



vide order dated 20.04.2020 as contained in Annexure '2' the claim of the petitioner to declare him juvenile was allowed by the J.J.B. Against this order an appeal was preferred by the informant giving rise to Cr. Appeal No. 06 of 2010 before the learned District and Sessions Judge, Gaya which was heard and disposed of vide order dated 29.07.2010 passed by the learned Additional Sessions Judge III court, Gaya.

The appellate court allowed the appeal and remanded the matter to the Juvenile Justice Board to conduct a fresh enquiry and pass necessary order with regard to the age of the petitioner.

Learned counsel submits that in the appellate order the learned Additional Sessions Judge-III court, Gaya had made it clear that a medical board shall be constituted for the purpose of determination of age of the petitioner and some other observations were made but the learned J.J.B. while passing a fresh order on 07.08.2010 though constituted a medical board but finally on 24.10.2013 declared the petitioner a juvenile by taking into consideration the matriculation certificate of the petitioner alone. It is submitted that the appeal preferred by the informant-petitioner also failed and that is under challenge before this Court.



It is his submission that once the appellate court had remanded the matter to the J.J.B. with certain directions and thereunder a medical board was constituted by the J.J.B., the Board is not justified in keeping aside the opinion of the medical board.

On the other hand, Mr. Pawan Kumar Churasia, learned A.P.P. for the State has supported the impugned judgment. It is submitted that the scheme of Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act of 2015 clearly provides the hierarchy in which the documents to prove the date of birth are to be relied upon. It is submitted that the learned Additional Sessions Judge 1st court, Gaya has in the impugned judgment recorded that the date of birth of the petitioner as mentioned in the school leaving certificate of Sarwjanik Arya Hindu Madhya Vidyalay, Sanyas Asram, Gaya is 14.01.1993 and the same date of birth is mentioned in the matriculation certificate as also in the record of the school namely T. Model Inter School, Gaya from which school the respondent no. 2 had got education.

It is his submission that on the face of the overwhelming material present on the record the learned J.J.B. has rightly relied upon the matriculation certificate of



respondent no. 2. It is submitted that only in absence of the date of birth certificate from the school or the matriculation certificate the Board could have proceeded to consider the medical opinion with regard to the age of the respondent no. 2. Learned A.P.P. submits that neither the J.J.B. nor the appellate court has committed any error in the impugned order and judgments respectively.

Having heard learned counsel for the petitioner and learned A.P.P. for the State as also on perusal of the judgment under revision, this Court finds that the learned Additional Sessions Judge 1st court, Gaya has considered the entire submissions of the petitioner and only after a careful perusal of the records, the court has come to a conclusion that there is no illegality or infirmity in the impugned order. Paragraph '10' of the appellate court's order are being reproduced as under:-

“Thus, after close scrutiny of the aforesaid academic certificate filed on behalf of the respondent no. 2, it becomes crystal clear that respondent no. 2 namely Ramakant Kumar was juvenile at the date of occurrence. There are consistency in the documentary evidence adduced on behalf of the respondent no. 2 in the aforesaid documentary evidence adduced on behalf of the respondent no. 2. The age of the



respondent no. 2 has been assessed by the J.J.B., Gaya after appreciating the oral and documentary evidence adduced before the board, in accordance with law. No any documentary evidence has been brought by the appellant on the record to create any doubt regarding the genuineness of the aforesaid academic documentary evidence adduced on behalf of the respondent no. 2 regard to his claim of juvenility.”

In view of the overwhelming materials present to satisfy the J.J.B. with regard to the age of the respondent no. 2, in the opinion of this Court, the Board has rightly come to a conclusion based on the matriculation certificate, no error may be found in the impugned order/judgment.

This revision application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

