

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.380 of 2020

Arising Out of PS. Case No.-412 Year-2018 Thana- KANTI District- Muzaffarpur

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(XXXX) through His Natural Guardian, Namely, Ramadhar Bhakta Who Is Father
Of The Petitioner R/O Village-Mohjamma, Ghyaspur, P.S-Paru, District-
Muzaffarpur. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K., Advocate

For the Respondent/s : Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 20-06-2022 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by the Stamp Reporter

within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.

Navin Kumar Pandey, learned APP for the State.

The petitioner in this case is aggrieved by and

dissatisfied with the order dated 19.02.2020 passed by learned

1st Additional Sessions Judge-cum-Special Judge (Children's
Court), Muzaffarpur in Cr. Appeal No. 95 of 2019. By the
impugned judgment, the learned Children's Court has been
pleased to reject the appeal preferred by the petitioner against
the order dated 03.06.2019 passed by learned Juvenile Justice
Board, Muzaffarpur under Section 15 of the Juvenile Justice
(Care and Protection of Children) Act, 2015 (hereinafter referred
to as 'the Act of 2015') in Kanti P.S. Case No. 412 of 2018.



It appears on perusal of the records that the petitioner was adjudged a juvenile aged more than 16 years on the alleged date of occurrence. He is facing the charges under Sections 364-A, 302, 201 and 120-B IPC. In terms of Section 15 of the Act of 2015, a preliminary assessment with regard to the mental and physical capacity of the petitioner has been done by the Juvenile Justice Board, Muzaffarpur. The Board has opined that the petitioner is fully capable of understanding the consequences of the alleged act committed by him and he is mentally as well as physically capable of understanding the things. Accordingly, after preliminary assessment, the Board sent the records to the Children's Court in terms of Section 18(3) of the Act of 2015.

The solitary question raised by learned counsel for the petitioner is that in the process of the preliminary assessment, the Juvenile Justice Board has not taken assistance of an experienced psychologist or psycho-social worker or other experts. It is his submission that the learned Special Judge (Children's Court) has also failed to appreciate this aspect of the matter and wrongly refused to interfere with the impugned order passed by learned Juvenile Justice Board.

On the query made by this Court as to whether the Children's Court has, after receipt of the preliminary assessment



from the Board acted under Section 19 of the Act of 2015 to decide as to whether there is a need for trial of the child as an adult, learned counsel submits that he is not aware of any such decision on the part of the Children's Court.

The application has been contested by learned APP for the State. Learned APP submits that under Section 15 preliminary assessment is to be done by the Juvenile Justice Board and so far as the question of taking assistance of an experienced psychologist or a psycho-social worker is concerned, it is left to the wisdom of the Board to take a view as to whether in a particular case, services of any such experienced psychologists or psycho-social workers is required.

Learned counsel has pointed out that the Juvenile Justice Board is headed by a Metropolitan Magistrate or a Judicial Magistrate 1st Class with at least 3 years' experience and consists of two social workers. It is submitted that in a given case if on prima-facie interaction with the child in conflict with law, the Board comes to a conclusion that the child is mentally and physically well-developed and he understands consequences of the offence committed by him as also other things, the Board is competent to pass an order in terms of Section 15 of the Act of 2015. It is further submitted that under



the scheme of the Act of 2015 so far as this issue is concerned, Section 19 operates after the records are sent by the Juvenile Justice Board to the Children's Court. It is in the nature of a double safety valve whereunder after receipt of the preliminary assessment report from the Board, the Children's Court may decide as to whether there is a need for trial of the child as an adult. Under clause (ii) of Sub-Section (1) of Section 19 if the Children's Court comes to a conclusion that there is no need for trial of the child as an adult, it may conduct an inquiry as a Board and pass appropriate orders in accordance with the provisions of Section 18.

It is lastly submitted that there is no illegality or infirmity with the impugned order and as such it requires no interference by this Court in its revisional jurisdiction.

Having heard learned counsel for the petitioner and learned APP for the State as also on perusal of the records, this Court finds that in paragraph '9', the learned Special Judge has recorded the following facts from the impugned order of the Juvenile Justice Board, which would be relevant to quote hereunder:-

"It further appears that vide impugned order on the point of Section 15, Juvenile Justice Act, while taking into consideration outcome of effort made by the Juvenile Justice Board to conduct a preliminary assessment with



regard to mental and physical capacity of the appellant to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence in accordance with the provision of Sub section 3 of Section 18 of Juvenile Justice Act. The Juvenile Justice Board, Muzaffarpur has opined that despite of efforts made by it to bring the appellant back into the mainstream of society while giving the benefit of presumption of innocence while treating him with utmost dignity by giving opportunity of hearing and taking his views into consideration with a view to the appellant develop with full potential by way of counselling by the J.J. Board, it was found that initially the appellant pretended to be submissive but gradually it became clear that appellant has no intention to reform and therefore the J.J. Board came to conclusion that appellant has full capability and understanding the act allegedly committed by him. The Juvenile Justice Board, Muzaffarpur has also opined that the appellant is not innocent and he is mentally and physically capable of understanding the offence allegedly committed by him having full knowledge. According to the J.J. Board, despite the lenient treatment and all the reformatory steps by the J.J. Board, the appellant continued to remain very aggressive and his body language was violent. Finally, the J.J. Board, Muzaffarpur has unanimously held that the appellant has allegedly committed the offence being fully, mentally and physically capable and having ability to understand its consequence and accordingly, it has held that the appellant is required to be tried by the Children's Court."

On a reading of the impugned order of the Juvenile Justice Board, it appears that the Board had earlier taken some



decisions to bring back the juvenile in conflict with law into the mainstream of the society. The Board has recorded that the child in conflict with law has no intention to reform and is very cunning and using manipulative tactics. The Board has further taken a view that the child has the capability and understanding of the act allegedly committed by him.

This Court finds no error with the impugned order passed by the Juvenile Justice Board as well as the Special Judge (Children's Court), Muzaffarpur.

This revision application has no merit.

It is further made clear that the Children's Court shall take a view independently under Section 19 of the Act of 2015.

The application stands disposed of accordingly.

(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'.

