

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1275 of 2018

Arising Out of PS. Case No.-69 Year-2017 Thana- GAIGHAT District- Muzaffarpur

Most. Marni Devi, wife of Late Sita Ram Singh @ Maujey Mahto, resident of
Village- Ashiya, P.O. -Jarang Dyodhi, P.S. Gaighat, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar.
2. Anil Kumar, son of Dinesh Rai, resident of Village- Ashiya, P.O. Jarang Dyodhi, P.S. -Gaighat, District- Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Bal Mukund Prasad Sinha, Advocate.
For the Respondent/s : Mr.Anil Kumar Singh No. 1, APP.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-08-2022 Heard learned counsel for the petitioner and Mr. Anil Kumar Singh No. 1, learned A.P.P. for the State.

Petitioner in the present case is aggrieved by and dissatisfied with the order dated 17th of July, 2018 passed in Criminal Appeal No. 17 of 2017 by which the learned appellate court has refused to interfere with the order passed by learned Juvenile Justice Board Muzaffarpur in Gaighat P.S. Case No. 69 of 2017.

Learned counsel for the petitioner submits that in this case the confessional statement of the opposite party no. 2 was recorded by the Police and in the said confessional statement the age of opposite party no. 2 has been recorded as 20 years.



It is further submitted that prior to passing of the order dated 18.07.2017 the learned Juvenile Justice Board (in short 'JJB') did not grant any opportunity of hearing to the petitioner.

Learned counsel, therefore, submits that the impugned order suffers from non-observance of the procedure established by law and it is liable to be set aside accordingly.

This Court has perused the records. No doubt the learned JJB did not grant any opportunity of hearing to the petitioner but in appeal before the appellate court when learned counsel for the petitioner did not appear, the appellate court appointed a panel Advocate for assistance and the appeal of the petitioner was heard.

The learned appellate court has perused the materials in form of the deposition of the enquiry witnesses and has found that in the present case the school admission register of the opposite party no. 2 was produced before the JJB and in the said school admission register the date of birth of the opposite party no. 2 is recorded as 12.03.2000 therefore, on the date of alleged occurrence i.e. 14.04.2017 he was aged about 17 years one month. The learned appellate court did not find any reason to interfere with the order of the learned JJB and dismissed the appeal.



In this Court learned counsel for the petitioner does not dispute the fact that in appeal learned counsel for the appellant had not appeared but the appellate court appointed a panel Advocate and the appeal was heard.

This Court is of the considered opinion that the learned JJB, Muzaffarpur should have given an opportunity of hearing to the victim/informant before finally passing an order determining the age of the opposite party no. 2 but this Court is not willing to interfere with the same at this stage because this petitioner went in appeal before the appellate court and when her lawyer did not appear the appellate court appointed a panel Advocate who argued the matter on behalf of the appellant-petitioner. The appellate court has, therefore, considered the grounds raised in the appeal. It is not the grievance of the petitioner before this Court that any of the grounds have not been considered by the appellate court.

This Court is also of the considered opinion that there being well settled law that confessional statement is not admissible in evidence, mere reference of the age of the petitioner in the confessional statement recorded by the Police Officer would not take away the claim of juvenility of the opposite party no. 2 which has been examined by the learned JJB and on the basis of the school admission register the age determination has been done. In the entire revision application there is no ground challenging the



age of the petitioner.

Lastly, learned counsel for the petitioner submits that in this revision application he has raised ground nos. 'XI' and 'XII' saying that during the inquiry on the point of determination of age, evidence of Incharge Headmaster was taken in the teeth of Section 165 of the Evidence Act. Neither any independent witness nor parents of opposite party no. 2 was examined by the Board and further forged and fabricated documents were produced by O. P. no. 2 in connivance with the Headmaster of the school.

This Court is not persuaded to accept the two grounds mentioned in paragraph 'XI' and "XII" of the application in want of any pleading and material to substantiate such grounds. It is not the case of the learned counsel for the petitioner that any ground taken before the appellate court has not been considered. In fact, in the revision application also there is no statement to substantiate the allegation of fabrication of the school admission register of Government High School.

For the aforesaid reasons, this Court is not inclined to interfere with the impugned order in its revisional jurisdiction.

This revision application stands disposed of.

(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'.

