

Ghuge

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 254 OF 2022

Shubham @ Babloo Milind Suryavanshi ...Applicant

V/s.

State of Maharashtra ...Respondent

Mr. Sahana Manjesh, for the applicant.

Ms. G.P. Mulekar, APP for the State.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 19, 2022

P.C.:

1. The applicant who claims to be Juvenile on the date of offence has challenged the order dated 19th March, 2022 passed by Sessions Court 12th Dindoshi in Criminal Appeal No.155 of 2021 confirming the order passed by Principal Magistrate, Juvenile Justice Board, Dongri, Mumbai.

2. On perusal of Juvenile Justice Board order it appears that by the order dated 24th June, 2020 psychological, physical and mental health test were directed to be carried out by the Juvenile Justice Board based on the said report an order to transfer to a trial to children's courts was passed. The applicant challenged the said order by Appeal No.155 of 2021 which has been dismissed by impugned order.

3. The learned Advocate relied on the Judgment in Criminal

Appeal No.950 of 2022 decided on 13th July, 2022 (**Barun Chandra Thakur Vs. Master Bholu & Anr.**) to urge that proviso to Sub-section 1 of Section 15 of Juvenile Justice Act, 2015 is mandatory in nature and it is necessary to take assistance of experienced physiologist or Psycho Social Worker. On perusal of the order passed by Juvenile Justice Board it appears that the report was submitted by psychiatrist and on the basis of report of psychiatrist the case was transferred to children's Court having jurisdiction. On perusal of paragraph No.79 of the Judgment in the case of (**Barun Chandra Thakur Vs. Master Bholu & Anr.**) it appears that assistance of experienced physiologist or Psycho Social Worker is mandatory, which the Juvenile Justice Board has failed to consider. The appeal against the said order has been dismissed by the Sessions Court.

4. In my view the issue involved in the petition is covered by the Judgment in the case of **Barun Chandra Thakur** (supra). Hence, following order :-

I) The impugned Order passed on 19th March, 2022 passed by Sessions Court 12th Dindoshi in Criminal Appeal No.155 of 2021 and order dated 29th October, 2022 passed by Principal Magistrate, Juvenile Justice Board, Dongri, Mumbai confirming the order is quashed and set aside.

II) The Juvenile Justice Board shall decide after consulting psychologist as required under the provisions of Section 15(1), as to whether any fresh examination would be of any relevance, or not. The Juvenile Justice Board shall pass

appropriate orders after following the procedure under Section 15(1) of Juvenile Justice Act, 2015 in accordance with law.

III) In that view of the matter Sessions Case No.425 of 2020 shall stand abated.

5. The Criminal Application is disposed of in the above terms.
No costs.

(AMIT BORKAR, J.)