

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1179 of 2017

Arising Out of PS. Case No.-261 Year-2012 Thana- PANDAUL District- Madhubani

Most Binita Devi W/o Late Sharda Nand Yadav resident of village -
Mohanpur, P.S. - Pandaul, District - Madhubani.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Ran Vijay Yadav S/o Shri Durga Nand Yadav resident of village - Mohanpur,
P.S. - Pandaul, District - Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Bimal Kumar Jha, Adv.
For the Respondent/s	:	Mr. Amrendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 23-06-2023 Heard the parties.

2. The petitioner has challenged the order dated 05.08.2017 passed in Cr. Appeal No. 267/2014 by learned Additional Sessions Judge-VI, Madhubani confirming the order dated 02.06.2014 passed by learned Juvenile Justice Board, Madhubani in Pandaul PS Case No. 261/2012, J.J. Board Case No. 383/2013 under Sections 302/34 of the IPC whereby the Board has denied to hold enquiry regarding juvenility of the OP No.2 and change its previous order dated 10.05.2013 declaring the OP No.2 to be juvenile on the date of occurrence.

3. Learned counsel for the petitioner submits that OP. No.2 has wrongly been declared juvenile by Juvenile Justice Board and the appeal preferred by the petitioner has been



dismissed by Additional Sessions Judge-VI, Madhubani without taking into consideration the fact that petitioner had earlier moved before the court of law for grant of bail in another case but did not raise any point of juvenility at that point of time and his bail application was considered as a major person.

4. Learned counsel for the petitioner further submits that the age of OP No.2 has been mentioned as 19 years in the voter's list and occurrence has taken place on 14.12.2012 while he was major. He also submits that from Annexure-5 of this petition, it would be evident that uncle of OP No. 2 had lodged a complaint against him in which he has shown the age of OP No.2 as 23 years in the year 2012. Accordingly, his submission is that the declaration of the juvenility of OP No.2 by the Juvenile Justice Board and affirmation of order passed by the appellate court is perverse and therefore, is fit to be set aside.

5. I have heard learned counsel for the petitioner and perused the material on record. It appears from the order passed by learned Juvenile Justice Board that at the time of considering the determination of age of the OP No.2, he has taken into account the admit card issued by Bihar School Examination Board, Patna in which the date of birth of OP No.2 is mentioned as 03.07.1995. The learned Additional Sessions Judge-VI,



Madhubani has come to the conclusion that if the accused/OP No.2 did not raise the point of juvenility in another proceeding, the same cannot be made a basis to declare him to be a major and further the age of the person mentioned in the voter list cannot be taken into account for the purpose of determination of age of the accused.

6. Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2000 prescribes that:-

“in case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining--

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test



conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.”

7. It is an admitted position that the admit card of matriculation/10th examination issued by Bihar School Examination Board has been produced by the OP No.2 before the Juvenile Justice Board in which his date of birth is mentioned as 03.07.1995. The learned Magistrate has relied upon the evidence which is admit card of matriculation and no doubt has been raised by the petitioner at that point of time regarding genuineness of the admit card.

8. As such, I do not find any merit in the instant application. The same is, accordingly, dismissed.

(Anil Kumar Sinha, J)

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