

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1266 of 2016

Arising Out of PS. Case No.-85 Year-2008 Thana- HASPURA District- Aurangabad

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Pankaj Chaudhary @ Pankaj Raj S/o Late Lalan Chaudhary, R/o Vill.- Piroo,
P.O.- Piroo, P.S.- Haspura, Dist.- Aurangabad.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rajendra Mistri, S/o- Ram Nagina Mishtri, R/o- Gandhinagar Amjharsharif,
P.S.- Haspura, Dist.- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar, Adv.
For the Respondent/s : Mr. Ajay Kumar No. 2, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 22-03-2023

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

The present criminal revision application has been
filed against the order dated 24.11.2016 passed by learned
Additional Sessions Judge, III, Aurangabad in Sessions Trial
No. 486 of 2014 by which the petition filed by the petitioner
declaring him juvenile on the date of occurrence was rejected.

Counsel for the petitioner submits that the order
passed by the learned Additional Sessions Judge, III,
Aurangabad in Sessions Trial No. 486 of 2014 is illegal and
need correction due to the reason that the said order has been
passed in violation of law.

Counsel for petitioner submits that the alleged
application was filed on 17.12.2015. The alleged date of

occurrence was 12-13.04.2008. Counsel submits that the hearing of this case took place on 24.11.2016. Counsel for the petitioner categorically submits that in the Juvenile Justice Act, 2000, there is specific provision in Section 7A of the Act that the question of juvenility can be raised at any stage of the case. Counsel submits that the Juvenile Justice Act, 2015 has come into force on 01.01.2016, the date on which it has been published in the Gazette of India, whereas the petition has been filed on 17.12.2015 itself. Counsel submits that the protection for application has been made in Section 25 of the Juvenile Justice Act, 2015 itself and in this view of the matter, the application filed by him on 17.12.2015 was protected under Section 7A of the Juvenile Justice, Act, 2000 and his same application was again protected under Section 25 of the Juvenile Justice, Act, 2015.

In this view of the matter, counsel submits that finding of the Court is basically illegal, perverse and contrary to law.

Counsel for State Mr. Ajay Kumar No. 2 submits that for ratification, this matter may be remanded back and the Court be directed to pass order afresh upon considering the petitioner as well as the informant of this case.

Counsel for petitioner at the time of arguments has raised the following judgments reported in **2016(3) PLJR 297**

(SC) (Mumtaz Vs. The State of Uttar Pradesh) and 2012(10) SCC 499 (Abuzar Hossain Vs. The State of West Bengal) in support of his arguments.

After going through the statute as well as the rulings mentioned above, it is crystal clear that the day on which application has been filed, Juvenile Justice Act, 2000, was in existence which has not been appreciated by the Court and after an order on this petition was passed on 24.11.2016, when the new Juvenile Justice Act, 2015 has enacted and Juvenile Justice Act, 2000 has been repealed by virtue of reading Section 25 and Section 101 of the Juvenile Justice Act, 2015, the action taken under the earlier Act has been protected and in this view of the matter, the findings of the Court is not correct and, therefore, this case is fit to be set aside.

Court is directed to pass order afresh on his representation considering the correct position of law as well as considering the judgments mentioned above.

With this direction, the present criminal revision application is allowed.

(Dr. Anshuman, J.)

sadique/-

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CAV DATE	
Uploading Date	
Transmission Date	