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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 06/01/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.RC(MD)No.375 of 2022

and

Cr1.MP(MD)No.4849 of 2022

Aravind : Appellant/Appellant/
Respondent

Vs.

State represented by
Inspector of Police,
All Women Police Station,
Pudukkottai District. : Respondent/Complainant

Prayer:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the case in CA No.8 of 2021 on the file of the Principal Sessions Court, Pudukkottai, dated 02/03/2021, confirming the judgment made in Cr.M.P No.62 of 2020 on the file of the Juvenile Justice Board, Pudukkottai, dated 14/12/2020 and set aside the same.

For Petitioner : Mr.S.Mohammed Kasim

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal revision has been filed seeking in order to set aside the order passed in CA No.8 of 2021 on the file of the Principal Sessions Court, Pudukkottai, dated 02/03/2021, confirming the order made in Cr.M.P No. 62 of 2020 on the file of the Juvenile Justice Board, Pudukkottai, dated 14/12/2020.

2.The facts in brief:-

The petitioner is facing the charges for the offences punishable under sections 9(1), (m), 9(n) and 10 of POCSO Act and section 354(c) IPC in Crime No.9 of 2020 on the file of the All Women Police Station, Pudukkottai. At the time of the occurrence, he was stated to be juvenile. The Juvenile Justice Board, Pudukkottai directed the petitioner to undergo medical examination and preliminary assessment. On the basis of the above said direction, medical examination and preliminary assessment was made and the Probation Officer also submitted a report. After completing the preliminary assessment and medical examination, the Board concluded that the petitioner has completed 17 years of age and he must be tried as adult by the children court.



3.Challenging the above said order, this petitioner filed appeal in Cr.A No.8 of 2021 before the Principal and Sessions Judge, Pudukkottai and that was dismissed, by order, dated 02/03/2021.

4.Now challenging the above said order, this revision has been preferred mainly on the ground that section 14 of the Juvenile Justice (Care and Protection of Children) Act, 2015 was not properly followed; He was produced before the Juvenile Justice Board, on 25/07/2020 and he was examined, on 18/09/2020 by the Medical Officer and on 23/09/2020, probation report was obtained and thereafter, an order was passed, on 14/12/2020.

5.According to the learned counsel appearing for the petitioner, section 14(3) of the Act is mandatory in nature; Non-compliance of the same will vitiate the entire process; Now the appellate court by taking into consideration of the fact that it was a pandemic period and in the *suo-motu* Writ Petition No.3 of 2020, time limit prescribed under various Laws were made extended.



6.No doubt that section 14(3) of the Juvenile Justice (Care and Protection of Children) Act, 2015 has its own purpose, because as the time advances, so also the mental capacity and mature will also advance. Assessment must be undertaken within the prescribed time to take the mental capacity and the juvenile may be brought on record, whether he must be tried by the juvenile or appropriate court.

7.Now the question which arises for consideration is that what will be the effect if the above said time period is not complied.

8.As observed by this court, the consequence of the validity has not been prescribed under the Act. Even though the time limit has its own purpose and the reason, that will not vitiate the entire proceedings. As observed by the appellate court, the assessment was undertaken beyond the period of limitation. Naturally, time would have lapsed. That can not be taken advantage by the petitioner.



9.No doubt that the Juvenile Justice Board has made an observation with regard to the report filed by the Probation officer. But ultimately that did not have any effect upon the conclusion. Medical evidence has also been taken into account. So, I find absolutely no reason to interfere the order that has been passed by the Juvenile Justice Board as well as the appellate court.

10.It is further submitted by the learned counsel appearing for the petitioner to the effect that the procedure that was adopted by the Board was not valid and circumstantial case was not taken into account. But reading of the order of the Juvenile Justice Board as well as the appellate court shows that he was examined by psychiatrist and from the report, it came to light that he is not suffering from any mental incapacity and in the Probation report, the character and conduct of the petitioner was also stated. The circumstance, under which the above said offence committed has been taken into account by the Juvenile Justice Board. So all the contention raised by the petitioner deserve, no consideration and accordingly, rejected.



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11. In the result, this criminal revision is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

06/01/2023

Index:Yes/No
Internet:Yes/No
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To,

1. The Inspector of Police,
All Women Police Station,
Pudukkottai District.
2. The Principal Sessions Court,
Pudukkottai.
3. The Juvenile Justice Board,
Pudukkottai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J

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