

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.432 of 2019**

Arising Out of PS. Case No.-212 Year-2017 Thana- MOTIPUR District- Muzaffarpur

BABLU YADAV @ BABLU KUMAR S/o Bhairo @ Bhairo Pd. Yadav R/o
village- Madhopur Hajja, P.S.- Sahebganj, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pandey, Adv.

For the Respondent/s : Mr. Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 29-02-2024

Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. The instant revision is directed against the Judgment
and order dated 18th February, 2019, passed in Criminal Appeal
No. 1 of 2019, affirming the order dated 25th November, 2018,
passed by the Juvenile Justice Board, Muzaffarpur, under Section
18(3) of the Juvenile Justice (Care and Protection of Children) Act,
2015. It was directed by the J.J. Board that the trial of the
petitioner would be held in the Children's Court at Muzaffarpur.

3. Before dealing with the legal issues involved in the
instant revision, this Court likes to record the following facts:-



One Bharat Prasad of Rajendra Nagar, Motihari within Police Station, Chhatauni, East Champaran made an application to the Officer-in-charge of Motipur Police Station, alleging inter alia that his grandson Manish Prasad and his friend Deepak Jaiswal having his Mobile Phone No. 9954954286 had informed him through the Mobile Phone No. 703576792, registered in the name of his Maternal Aunt that both were in Motipur and after collecting some money, they would come to Motipur to meet his Maternal Aunt. However, even after lapse of considerable time, grandson of the informant did not return to the house at Motipur. Subsequently, it was noticed that the mobile phone of the said Manish Prasad was switched off. The informant apprehended that both the boys have been enticed away and kidnapped.

4. On the basis of the said written complaint, Motipur P.S. Case No. 212 of 2017 was registered under Section 364 of the I.P.C. The case was taken up for investigation and on completion of investigation Police submitted charge-sheet against the petitioner and others under Sections 364/302/201/34 of the I.P.C.

5. Initially, the case was referred to the J.J. Board, Muzaffarpur, because of the fact that the petitioner was found juvenile by the Board. The petitioner challenged the said order dated 2nd September, 2018 by filing Criminal Appeal No. 25 of



2018. The said Criminal Appeal was dismissed on 28th May, 2018 and the order passed by the J.J. Board was affirmed. Thereafter, the J.J. Board explained substance of accusation to the petitioner under Sections 364/302/201/34 of the I.P.C. The petitioner denied the said charge and claimed to be tried vide order dated 24th August, 2018. The petitioner has been declared as juvenile and his age was assessed as 17 years 10 months and 21 days as on 17th October, 2017. Thereafter, the Board by virtue of the provision contained in Section 7(3) of the said Act transferred the case to the Children Court at Muzaffarpur for trial. The petitioner again challenged the said order by filing Criminal Appeal No. 1 of 2019. The said appeal came up for hearing before the Additional Sessions Judge-I, Muzaffarpur on 18th February, 2019, when the said appeal was also dismissed.

6. It is ascertained from the record that the J.J. Board, Muzaffarpur made an enquiry under Section 18 of the said Act and came to the finding that there is a need of trial of the child as an adult. Then the Board made order of transfer of the trial of the case to the Children's Court having jurisdiction to try such offence. The J.J. Board, Muzaffarpur made an enquiry under Section 18 (1) of the said Act and came to the finding that the C.I.C.L. is required to be tried by the Children's Court. Accordingly, the case was



transferred to the Children's Court by the J.J. Board, Muzaffarpur, vide order dated 2nd February, 2018.

7. The petitioner preferred an appeal before the learned Sessions Judge at Muzaffarpur, which was registered as Criminal Appeal No. 25 of 2018. By an order dated 28th May, 2018, the said appeal was dismissed.

8. After dismissal of the appeal, the J.J. Board, Muzaffarpur had no other alternative but to transfer the case for trial to the Children's Court. The J.J. Board passed such order on 29th November, 2018. The said order was again challenged by the petitioner in Criminal Appeal No. 1 of 2019. The appeal being dismissed by the learned Additional Sessions Judge-I, Muzaffarpur, the petitioner has preferred the instant revision.

9. I have carefully perused the impugned order. It appears from the impugned order that the J.J. Board, Muzaffarpur passed an order on 22nd November, 2017 for psychological test of the C.I.C.L. Vide order dated 29th November, 2018, the J.J. Board considered the order of the Psychologist. The J.J. Board, Muzaffarpur came to a decision that the C.I.C.L. had mental and physical capacity as well as knowledge of the consequence of the offence, only then the J.J. Board, Muzaffarpur sent the case record to the Children's Court.



10. Therefore, I do not find any irregularity or impropriety in the impugned order dated 18th February, 2019, passed in Criminal Appeal No. 1 of 2019, by the learned Additional Sessions Judge-I, Muzaffarpur.

11. The instant revision is accordingly dismissed on contest.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	12.02.2024
Uploading Date	
Transmission Date	

