

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1464 of 2017**

Arising Out of PS. Case No.-84 Year-1995 Thana- MUSAHARI District- Muzaffarpur

Manoj Ram S/o Satahu Ram, R/o Village- Dhiranpatti, P.S.- Bela, District- Muzaffarpur.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr. Vijay Kumar Sinha, Amicus Curiae

For the Respondent/s : Mr. Abhimanyu Sharma , Addl PP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

and

HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 04-03-2024

I.A. No. 3 of 2023

This application has been filed on behalf of the appellant seeking to modify the prayer in the memo of appeal. This appeal had been preferred initially challenging the conviction and sentence dated 17.10.2017 and 31.10.2017 respectively passed by learned 11th Additional Sessions Judge, Muzaffarpur in S.Tr. No. 70 of 1997 arising out of Mushahari P.S. Case No. 84 of 1995 whereby and whereunder the appellant had been convicted for the offence under Sections 302, 364A and 201 of the Indian Penal Code (in short 'IPC') and he has been ordered to undergo imprisonment for life and to pay fine of Rs. 25,000/- for the offence under Section 302 IPC, he has been further ordered to undergo life imprisonment with a fine of Rs. 25,000/- for the offence under Section 364A IPC and seven years

rigorous imprisonment with a fine of Rs. 10,000/- for the offence under Section 201 IPC.

2. It appears from the records that by filing I.A. No. 2 of 2021, the appellant raised a plea of juvenility and submitted before this Court that he had earlier filed I.A. No. 1 of 2019 for this purpose which was disposed of with liberty to file another application in the same subject matter specifying the provisions of law under which the application has been filed.

3. In I.A. No. 2 of 2021, this Court vide order dated 12.07.2023 referred the matter to the Juvenile Justice Board (hereinafter referred to as 'Board') with a direction to the appellant to appear before the Board. A direction was issued to the Board to hold an inquiry and submit a report about the age of the appellant.

4. Pursuant to the said order, the Board has conducted an inquiry and vide Letter No. 4474, the In-charge District and Sessions Judge, Muzaffarpur has submitted a report to this Court with the inquiry report of the Juvenile Justice Board, Muzaffarpur. Vide order dated 25.08.2023, the Board has declared this appellant a juvenile aged about sixteen years eight months fifteen days.

5. In view of the above developments now the appellant having been found a juvenile has filed I.A. No. 3 of 2023 in which his submission is that in the changed circumstances he is now challenging only the sentence and not the conviction passed by the learned trial court. Accordingly, the prayer has been made to modify the prayer in

the memo of appeal in paragraph ‘1’ and prayer portion to the extent that the order of sentence be modified.

6. Since no one is appearing on behalf of the appellant, we have requested Mr. Vijay Kumar Sinha, learned counsel present in Court to assist this Court.

7. Mr. Abhimanyu Sharma, learned Additional P.P. appears for the State.

8. Learned Amicus curiae as well as learned Additional P.P. for the State jointly submit that in view of the developments which have taken place, the I.A. No. 2 of 2021 as well as I.A. No. 3 of 2023 are fit to be allowed. Accordingly, we allow both the interlocutory applications. As a result thereof, we modify the order of sentence in terms of sub-section 2 of Section 21 of the Juvenile Justice Act, 1986 which was applicable in the present case. Since the appellant has already remained in custody for more than six years while modifying the order of sentence to a maximum period of three years, we direct his release forthwith if not wanted in any other case.

(Rajeev Ranjan Prasad, J)

(G. Anupama Chakravarthy, J)

Rishi/-

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CAV DATE	
Uploading Date	06.03.2024
Transmission Date	06.03.2024