

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1276 of 2018

Arising Out of PS. Case No.-556 Year-2015 Thana- KANTI District- Muzaffarpur

Manjul Choudhary @ Raja Babu, Son of Nanu Choudhary Resident of Village-Kalwari,P.S. Kanti,Distt.-Muzaffarpur,under the Guardianship of Sri Nunu Choudhary,who is his natural Guardian Father

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : MS. Bela Singh

For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV JUDGMENT

Date : 01-03-2024

1. A minor girl aged about three years was subjected to penetrative sexual assault by a boy, who was aged about 14 years and 6 months at the time of commission of offence. The offence was so grievously committed that the victim returned to her mother after commission of offence, who was working in an agricultural field, with profusely bleeding. The record shows that she was first taken to the Primary Health Centre. The Medical Officer found serious injury causing rupture from her fouchette to anal point. The wound was repaired.

2. The Child in Conflict with Law (hereinafter described as “CICL” for short) was produced before the



Juvenile Justice Board. He faced trial for the offences punishable under Section 376 of the Indian Penal Code read with Sections 4 / 6 of the POCSO Act, 2012, and Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The Juvenile Justice Board found him guilty for the offence punishable under Section 376 of the IPC read with Section 6 of the POCSO Act. The CICL was directed to be kept in Special Home for the maximum period prescribed under the Juvenile Justice (Care and Protection of Children) Act, 2015 and it was directed that the CICL would have to stay three years in Special Home. Period undergone during the enquiry of the case in Observation Home by the CICL was directed to be set off from the period awarded as per Section 428 of the Code of Criminal Procedure,

4. The CICL filed an appeal before the learned Additional Sessions Judge, 1st Court at Muzaffarpur. The appeal was dismissed and the order of conviction and sentence was affirmed.

5. The sentencing order is under challenge in the instant revision.



6. The learned counsel appearing on behalf of the petitioner refers to Section 20 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter described as “the said Act”).

7. It is submitted by the learned counsel for the petitioner that when the CICL attains the age of 21 years and is yet to complete the term of stay, the Children’s Court shall provide for a followup by the Probation Officer or the District Child Unit or a Social Worker or by itself, as required, to evaluate, if such child has undergone reformatory changes and if the child can be a contributing member of the society and for this purpose the progress records of the child under Sub-section (4) of Section 19, along with evaluation of relevant experts, are to be taken into consideration.

8. Sub-section (2) of Section 20 states that after the completion of the procedure specified under Sub-section (1), the Children’s Court may -

(i) decide to release the child on such conditions as it deems fit which includes appointment of a Monitoring Authority for the remainder of the prescribed term of stay;



(ii) decide that the child shall complete the remainder of his term in a jail.

9. It is submitted by the learned Advocate for the petitioner that the incident took place on 28th of November, 2015. At that relevant point of time, the CICL was aged about 14 years and 6 months. By this time, he has already crossed 21 years. Therefore, an enquiry by the Children's Court is obligatory under the provision of Section 20 of the said Act.

10. I have duly considered the provision contained in Section 20 of the said Act.

11. Since the CICL has already attained the age of 21 years, an enquiry by the Children's Court under Section 20 is absolutely necessary.

12. Therefore, the instant revision is disposed of, directing the Children's Court, i.e., the 1st Court of the learned Additional Sessions Judge, Muzaffarpur to make an enquiry under Section 20 of the said Act and decide in terms of Sub-section (2) of Section 20, as to whether the CICL would be released on certain terms and conditions or he shall complete the remainder of his terms in a Correctional Home.



13. With this direction, the instant revision is disposed of.

14. Let a copy of this order be sent to the learned Presiding Officer, Children’s Court at Muzaffarpur for information and compliance of the order at the earliest, preferably within a period of three months from the date of communication of this order.

(Bibek Chaudhuri, J)

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AFR/NAFR	NAFR
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