

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.777 of 2022

Arising Out of PS. Case No.-30 Year-2016 Thana- GHANSHYAMPUR District- Darbhanga

Ram Layak Singh, Son of Rajdev Singh, Resident of village- Kamarthu, P.S-
Gaighat, District- Muzaffarpur

... .. Petitioner

Versus

1. The State of Bihar
2. XXX, Son of Sunil Kumar Singh, Resident of Village-Punhad, P.S.
Ghanshyampur, District Darbhanga.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
For O.P No. 2	:	Mr. Nilendu Kumar Choudhary, Adovacate
For the Respondent/s	:	Mr. Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 23-01-2024 Heard learned counsel for the petitioner, opposite
party no. 2 and the State.

2. The petitioner in this case is aggrieved by and
dissatisfied by order dated 05.01.2018 passed by learned
Juvenile Justice Board, Darbhanga in Enquiry Case No.
642/2016/Juvenile Trial No. 642 of 2016.

3. Learned counsel for the petitioner submits that the
opposite party no. 2 had been able to get himself adjudged a
juvenile on the basis of certain documents which were forged
and fabricated, hence, the order declaring juvenility of the
opposite party no. 2 has been obtained by playing fraud upon
the Juvenile Justice Board. It is further submitted that when the

petitioner came to know about the fraudulent approach of the opposite party no. 2, he filed an application dated 28.02.2019, in the Board for review of the order dated 05.01.2018, which has been rejected *vide* order dated 29.06.2022 on the ground that the Board has no power to review and once the order dated 05.01.2018 has attained finality, the Board would not review its order in the garb of exercise of its power under Section 104 of the Juvenile Justice Act, 2015 (hereinafter referred to as the 'Act of 2015')

4. Learned counsel for the opposite party no.2 submits that the Board has rightly refused to amend the order dated 05.01.2018. According to him, it was not a case for amendment of the order rather the petitioner was seeking review of the order dated 05.01.2018. It is further submitted that on a bare perusal of the order dated 05.01.2018, it would appear that the Board has passed the said order on the basis of evidences which were brought before the Board. The Assistant Principal and Principal of the two schools had appeared before the Board with the admission register of Class-II and Class-IX. There was also an evidence in the form of mark-sheet of the matriculation issued by the Bihar School Examination Board and in all these documents, the date of birth of the opposite party no.2 was

consistently showing as 02.02.2002, thus, on the alleged date of occurrence, the opposite party no.2 was aged about fourteen years, one month and five days. It is further submitted that in any case, the order dated 05.01.2018 is an appealable order under Section 101 of the Act of 2015. It is further submitted that this Court sitting in its revisional jurisdiction would not appreciate the evidences afresh and place its own opinion in the place of opinion of the Board.

5. Learned counsel for the State has also defended the impugned order.

6. At this stage, learned counsel for the petitioner submits that he is aware of the fact that the order dated 05.01.2018 is an appealable order under Section 101 of the Act of 2015, but by the time he could gather relevant materials and information to demonstrate that the opposite party no.2 has obtained the order dated 05.01.2018 by playing fraud upon the Board, there was a huge delay of over one year, therefore the petitioner was advised to file an application seeking review of the order which has been rejected. It is submitted at this stage that he is ready to withdraw this revision application with a liberty to file an appeal before the learned Children's Court of competent jurisdiction with an application

seeking condonation of delay.

7. Learned counsel for the opposite party no.2 submits that if such a appeal is preferred by the petitioner, he would oppose the same on all the grounds which would be available to him.

8. Having regard to the kind of submissions made at the end of the arguments by learned counsel for the petitioner seeking to withdraw this application with a liberty to file an appeal, this Court permits withdrawal of the revision application with liberty as prayed for.

9. In case, the petitioner prefers any appeal in the Children’s Court, and seeks condonation of delay, the same shall be considered on its own merit and it will be open for both the parties to raise all such pleas which are available to them.

10. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Shahnawaz/Rishi

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