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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 633/2002**

MOHD.YUSUF @ CHAND

..... Appellant

Through: Ms. Aishwarya Rao and Ms. Mansi
Rao, Advocates.

versus

STATE OF DELHI

..... Respondent

Through: Mr. Laksh Khanna, APP for State.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

11.03.2024

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1. By way of present appeal, the appellant has assailed the judgment dated 26.07.2002 as well as order on sentence dated 29.07.2002 passed in Session Case No. 36/2001 whereby appellant has been convicted for the offence punishable under Section 307 IPC and sentenced to undergo R.I. for 5 years with fine of Rs.10,000/- and in default of payment of fine to further undergo SI for 1 year and 3 months.

2. While the present appeal was pending, the appellant had raised the issue of him being juvenile at the time of commission of offence. Ms. Rao, learned counsel for the appellant states that looking into the plea raised, the Trial Court had been directed to conduct an enquiry by this Court. Vide order dated 07.05.2004 learned Sessions Judge, after considering the material placed on record, reached a conclusion that the appellant was indeed a juvenile at the time of commission of offence. The proceedings held before this Court on 20.07.2004 also mention about the receipt of the



report. The appeal however remained pending for one reason or the other. A nominal roll of the appellant has also been placed on record as per which, the appellant has undergone sentence of 1 year, 5 months and 24 days as on 03.01.2004.

3. However, considering that the issue whether plea of juvenility can be raised at any point of time including during the pendency of appeal is no longer *res integra*. Reference in this regard can be made to the decision of the Supreme Court in *Pramila v. State of Chattisgarh* **2024 SCC OnLine SC 57** wherein the Supreme Court also dealt with the similar plea raised during the appeal before it. Appellant has already been held to be juvenile vide inquiry held by the Sessions Court. Accordingly, trial qua the present appellant in Session Case No. 36/2001 is set aside. Further, considering that the incident took place in the year 2000 and appellant has already undergone incarceration of more than 1 year, this Court finds no useful purpose by sending appellant before the Juvenile Justice Board.

4. Appeal is disposed of in the above terms. Bail bond stands cancelled and surety stands discharged.

5. Copy of the order be communicated to the Trial Court as well as concerned Jail Superintendent.

MANOJ KUMAR OHRI, J

MARCH 11, 2024

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