

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.53 of 2025

Arising Out of PS. Case No.-644 Year-2022 Thana- ARA NAGAR District- Bhojpur

Gautam Kumar S/o- Ramadhar singh R/O Village- Raghu tola PS- Ara town
District-Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Munni Devi W/o- Satya Narayan Rai Village- Badka Chanda Ps- Koelwar
Dist- Bhojpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Awadhesh Kumar, Advocate
For the Respondent/s	:	Mr. Anish Chandra, APP
For the O.P. No.2	:	Mr. Kunal Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 31-07-2025 This is a criminal revision under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 challenging legality and propriety of the order dated 01.10.2024 passed by the learned First Additional District & Sessions Judge-cum-Special Judge, Children's Court, Bhojpur at Ara in Criminal Appeal No.31 of 2024, whereby the learned Court of Appeal set aside the order dated 01.05.2024 passed by the learned Juvenile Justice Board in J.J.B. Case No.272 of 2023 (arising out of Ara Town P.S. Case No.644 of 2022). This revision challenges the said order dated 01.10.2024 passed in Cr. Appeal No.31 of 2024.

2. Ara Town P.S. Case No.644 of 2022 was registered



on the basis of Fardbeyan of one Ramadhar Rai, which was recorded by the S.H.O. of Ara Town police station on 17.07.2020 at around 5:00 a.m., the informant went to the house of his step mother, namely, Sumitra Devi. As soon as he reached in front of the door of the house of Sumitra Devi, he found blood sipping out from beneath the door. Immediately he opened the gate and found dead-body of his step mother having bleeding injury on her body. He also found the dead-body of Ram Awadhesh Rai @ Munna lying on the bed having fetal injury on his abdomen. It appears to the informant that both of them were shot dead then he rushed to call Premchand Rai, brother of Sumitra Devi, who used to reside in the neighborhood some other people also rushed to the place of occurrence and gathered on the basis of the said statement, police registered Ara Town P.S. Case No.644 of 2022 dated 17.07.2020 under Section 302 of the I.P.C. and Section 27 of the Arms Act.

3. During investigation, the Investigating Officer suspected the informant, his son Gautam Kumar, Sonu Kumar, Bittu @ Arbaaz Khan as the perpetrated of the offence. On completion of investigation, police submitted charge-sheet against Gautam Kumar, Sonu Kumar, Bittu @ Arbaaz Khan while the investigation was kept pending against the informant



Ramadhar Rai, Nikhil Kumar and Vikas Kumar.

4. The petitioner filed an application before the learned Chief Judicial Magistrate, Bhojpur at Ara claiming himself to be a juvenile on the date of commission of offence. The learned Chief Judicial Magistrate referred the case to the Juvenile Justice Board for further consideration.

5. Initially the Board by an order dated 14.12.2022 rejected the petition filed by the CICL holding, inter-alia- that the plea of juvenility by the petitioner was wrong and concocted.

6. The petitioner did not prefer an appeal against the said order. The petitioner filed a second petition on 15.07.2023 with similar prayer alongwith Admit Card, Mark-sheet, Registration Receipt issued by the Bihar School Examination Board and Transfer Certificate issued by the R.N. High School, Birampur, Bhojpur and also his Aadhar Card. On the basis of the said documents, the petitioner claimed that on the date of occurrence he was aged about 16 years 03 months and 29 days as his date of birth was 12.03.2006. The Juvenile Justice Board on verification of those documents under the provision of Section 94(2) of the said Act held the petitioner as a juvenile on the date of commission of offence. Against the said order, one



Munni Devi daughter of deceased Sumitra Devi preferred an appeal before the learned Sessions Judge, 1st Court-cum-Children Court at Ara, which was registered as Criminal Appeal No.31 of 2024. The learned Trial Judge allowed the appeal by setting aside the order passed by the Juvenile Justice Board dated 01.05.2024 holding, inter-alia, that Section 104 of the said Act does not contemplate for a review of the earlier order of the Board and the Board has no jurisdiction to pass subsequent order dated 01.05.2024 declaring the CICL as juvenile.

7. The learned Advocate on behalf of the petitioner submits that the CICL did not seek for review, the subsequent petition filed on behalf of the CICL was indeed an application under Section 9(2) of the said Act before the learned Chief Judicial Magistrate, Bhojpur at Ara and the learned Chief Judicial Magistrate referred the matter to the Juvenile Justice Board for disposal.

8. It is also submitted by the learned Advocate on behalf of the CICL that Section 9(2) of the said Act authorizes a CICL to raise claim of juvenility at any stage and whenever this plea is taken, it is the duty of the Court to direct the Board to conduct a fair and proper inquiry to ascertain the truth by examining the correctness of the documents or certificates or



materials produced before the Court.

9. Initially, the CICL could not produce enough document to prove that he was juvenile on the date of commission of alleged offence, subsequent application was filed on the basis of additional documents, viz. Matriculation certificate, Admit Card issued by the Bihar Secondary Board of Education, Transfer Certificate, Aadhar Card etc. On the basis of said document, the Board has power to pass fresh judgment declaring the CICL as a juvenile on the date of commission of offence.

10. In support of his contention, the learned Advocate for the CICL refers to the decision of the Hon'ble Supreme Court in *Pawan Kumar Vs. State of U.P. and others*, reported in *(2023) 15 SCC 683* and *Rahul Kumar Yadav Vs. State of Bihar*, reported in *AIR 2024 SC 2739*.

11. The learned Children's Court mis-appreciated the provision of Section 104(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015. The aforementioned provision provides that without prejudice to the provision for appeal and revision, under the said Act, the Committee or Board may on an application received in this behalf amend any orders passed by itself, as to the institution to which a child is to be



sent or as to the person under whose care or supervision a child is to be placed under the Act. Clause-(2) of Section 104 speaks about amendment of clerical and arithmetical mistake.

12. Second application filed by the petitioner was not an application for rectification of any clerical mistake. This was an application for declaring the petitioner as a juvenile. The said application is maintainable and the order passed by the Children’s Court in Criminal Appeal No.31 of 2024 is set aside. The CICL shall be tried in accordance with the provisions contained in the Juvenile Justice (Care and Protection of Children) Act, 2015.

13. The instant revision is accordingly, allowed on contest. There shall be however, no order as to cost.

(Bibek Chaudhuri, J)

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