

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.22 of 2024

Arising Out of PS. Case No.-79 Year-2007 Thana- GOVERNMENT OFFICIAL COMP.
District- Jehanabad

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Jitendra Kumar Gupta Son of Ramishwari Prasad Resident Of Bandhuganj,
P.S. - Ghoshi, District - Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar Singh
For the Respondent/s : Mr. Anant Kumar 1

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 05-05-2025 The petitioner was convicted in GO No. 79 of 2007 which was registered on the basis of a complaint submitted by the Labour Enforcement Officer-cum-Inspector, Ghoshi P.S, within Jehanabad for the offence under Section 14(1) of the Child And Adolescent Labour (Prohibition And Regulation) Act, 1986. After conviction, the petitioner was sentenced to suffer simple imprisonment of 3 months and also to pay fine of Rs. 10,000/-, in default for further Simple Imprisonment of 15 days. The said order of conviction and sentence was passed by the learned S.D.J.M, Jehanabad. The petitioner preferred an appeal against the aforesaid order of conviction and sentence which was registered as Criminal Appeal No. 81 of 2018 before the learned Additional Sessions Judge-II, Jehanabad by an



impugned order dated 03rd October, 2023, the appeal was dismissed affirming the order of conviction and sentence passed by the trial court.

2. The instant revision challenges the legality, validity and parity of the order of conviction and sentence affirmed by the learned Court of Appeal in Criminal Appeal no. 81 of 2018.

3. The learned Advocate appearing on behalf of the petitioner submits that the complainant has alleged that on 02 December 2006 at about 03:00 pm, he inspected the Hotel of the petitioner under the name and style of New Jalpan Sweets and Chat House situated at Bandhuganj Market and found that a body aged about 10 years was working in the said Hotel in contravention of the provision contained in Section 3 of the Child And Adolescent Labour (Prohibition And Regulation) Act, 1986 (hereinafter, described as the “Said Act”. Accordingly, a complaint was filed against the petitioner before the learned Chief Judicial Magistrate, Jehanabad, who took cognizance of the offence and transfer the case to the learned SDJM, Jehanabad for trial and disposal.

4. The learned Advocate appearing on behalf of the petitioner submits that the trial court wrongly passed an order of conviction and sentence against the petitioner on the following



grounds:-

(I) The complainant failed to produce any documents of ownership of the said Hotel to prove that the petitioner is the owner of the said hotel.

(II) The place of occurrence could not be established as the complainant failed to produce any document showing the actual place where the Hotel in question situates.

(III) The prosecution failed to prove the age of the child labour in terms of Section 16(2) of the “Said Act”.

(IV) The child labour/victim was not examined during trial of the case.

(V) Prosecution failed to produce any document of employment of the victim in the said Hotel.

5. The learned APP, on the other hand, submits that both the trial court and appeal of court found that the petitioner is the owner of the Hotel in question where a child aged about 10 years was working. Both the courts below came to such finding on the basis of the evidence adduced by the complainant and the Labour Welfare Inspector as PW-1 and PW-2 respectively. They are the official witnesses and their evidence cannot be thrown away on the ground of interestness because the witnesses did not have any relation with the petitioner who



is the owner of the said Hotel.

6. Having heard the learned Advocates on behalf of the petitioner and the State, and on perusal of the impugned order, I find that the impugned order affirming the judgment of conviction and sentence cannot not be sustained only on the ground that the prosecution failed to prove the age of the victim/child on the basis of ossification test and medical certificate by a prescribed medical authority iwthout such medical certificate, it is not possible for the Court to hold that the labour who was working in the said Hotel in question was a child aged about 10 years.

7. For the reasons stated hereinabove, the order of conviction and sentence passed by the learned SDJM, Jehanabad and the order passed in Criminal Appeal no. 81 of 2018 by the learned Additional Sessions Judge-II, Jehanabad are set aside.

8. The instant revision is accordingly, allowed. The petitioner is acquitted of the charge under Section 14(1) of the Said Act, set at liberty,

9. For the reasons stated above, I am inclined to release the above named petitioner on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of



the like amount each to the satisfaction of the concerned court.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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