

Bhawani Singh Vs. State

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Court : Rajasthan

Decided On : Mar-08-2006

Reported in : RLW2006(2)Raj1670; 2006(2)WLC752

Judge : Harbans Lal, J.

Acts : Juvenile Justice (Care and Protection of Children) Act, 2000 - Sections 20; [Juvenile Justice Act, 1986](#) - Sections 26; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 397 and 401

Appeal No. : S.B. Criminal Revision Petition No. 608 of 2005

Appellant : Bhawani Singh

Respondent : State

Advocate for Def. : Ashwani Sharma, Public Prosecutor and; Gajanand Yadav, Adv. for Respondent No. 2

Advocate for Pet/Ap. : Shailendra Balwada, Adv.

Disposition : Petition allowed

Judgement :

Harbans Lal, J.

1. The instant criminal revision petition under Section 397 r/w Section 401 of the Code of Criminal Procedure, 1973 seeks quashing of the order dated 27.5.2005 passed by the learned Addl. Sessions Judge, Khetri Distt. Jhunjhunu in Sessions Case No. 31/2002 whereby the application moved by the petitioner for transferring the case of accused Kapinder Singh to the Juvenile Justice Board for trial has been dismissed.

2. Briefly stated, the relevant facts necessary for the disposal of this revision petition are that a criminal case came to be registered on the basis of first information report lodged by Bhawani Singh. After investigation charge-sheet was filed and the case was committed to the Court of Sessions for trial. The Trial Court inquired into the age of Kapinder Singh and recorded a finding that his age was 17 years 10 months and 12 days on the date of occurrence. The Juvenile Justice (Care & Protection of Children) Act, 2000 (here-in-after in short 'the Act of 2000') came into force on 1.4.2001. Obviously, the Act of 2000 was in force when the occurrence of this case took place. Still, the learned court below declined to send the case to the Juvenile Justice Board observing that his case would be remitted to the Board only if he is found guilty in view of the provisions of Section 20 of the Act of 2000. Aggrieved by the said order, the complainant has preferred this revision petition.

3. I have heard learned Counsel for the parties as well as learned PP and the learned Counsel for non-petitioner No. 2.

4. The law in point seems to be now well settled in view of the pronouncement of the Hon'ble Apex Court in the case of Pratap Singh v. State of Jharkhand and Anr. 2005(1) Supreme 775 wherein it has been authoritatively held that the date of reckoning of the age of a juvenile is the date of the offence and not the date of his production appearance before the Court, The Hon'ble Apex Court has approved the law laid down in the case of Umesh Chandra v. State of Rajasthan : [1982]3SCR583 and has over-ruled the law laid down in the case of Arnit Das v. State of Bihar : 2000 CriLJ2971 by a majority of 4:1. The Hon'ble Apex Court has further dealt with the provisions of Section 20 of the Act of 2000 and Section 26 of the [Juvenile Justice Act, 1986](#) (in short referred to as 'the Act of 1986') which was

in force prior to the coming into force of the Act of 2000. Section 20 refers to cases where a person has ceased to be a juvenile under the Act of 1986 and has not yet crossed the age of 18 years when the offence was committed after the coming into force of the Act of 2000 Section 20 of the Act of 2000 is as under: -

20. Special provision in respect of pending cases - Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any Court in any area on the date on which this Act comes into force in that area, shall be continued in that Court as if this Act had not been passed and if the Court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, forward the juvenile to the Board which shall pass orders in respect of that juvenile in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that a juvenile has committed the offence.

5. Thus, from a perusal of the aforesaid provision it is evident that the learned court below has not rightly appreciated the provision. Therefore, the order passed by it is un-sustainable and deserves to be set aside.

6. Consequently, this revision petition is allowed and the order dated 27.5.2005 is set aside and it is directed that the case of non-petitioner No. 2 Kapinder Singh shall be separated and shall be sent to the Juvenile Justice Board for trial in accordance with the provisions of law.