

Manish Kumar. Vs. the State of Jharkhand.

Manish Kumar. Vs. the State of Jharkhand.

SooperKanoon Citation : sooperkanoon.com/916444

Court : Gujarat

Decided On : Jan-31-2011

Judge : D.K.Sinha, J.

Acts : Juvenile Justice (Care and Protection of Children) Act - Sections 53, 12; Indian Penal Code (IPC) - Sections 376, 354, 306, 509, 511 Read With Section 120B; Information and Technology (Amendment) Act - Sections 66A, 66B, 67A, 67B, 72

Appeal No. : Cr. Rev. No. 255 of 2011.

Appellant : Manish Kumar.

Respondent : The State of Jharkhand.

Advocate for Pet/Ap. : Mr. Nilesh Kumar, Adv.

Judgement :

1. The instant Criminal Revision has been preferred under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 against the order impugned dated 14.01.2011 passed by the Sessions Judge, Hazaribag in Criminal Appeal No.164 of 2010 by which the prayer for bail made by the petitioner-jvenile was rejected by the Juvenile Justice Board, Hazaribag on 09.12.2010 was affirmed in Rajrappa P.S. Case No. 70 of 2010, corresponding to G.R.No. 2980 of 2010 and the appeal was dismissed. The petitioner was arrested but he was declared juvenile after determination of his age by the Juvenile Justice Board on

18.12.2010. The F.I.R. was lodged against as many as 11 named accused persons including the petitioner-juvenile for the alleged offence under Sections 376/354/306/509/511 read with Section 120B of the Indian Penal Code as also under Sections 66A/66B/67A/67B and 72 of the the Information and Technology (Amendment) Act, 2008.

2. Learned Counsel Mr. Nilesh Kumar submitted that no specific allegation was attributed against the petitioner Manish Kumar much less the offence alleged under Sections 376/354/306/509/511 and 120B of the Indian Penal Code. The only allegation against the petitioner Manish Kumar was that when the principal accused Deepak Mahto, Shayam Mahto and Rishu Singh failed in their mission to commit gang rape, to which the daughter of the informant declined, the nude photograph which was taken by them on their cell phone was transferred to the cell phone of the other boys just to impeach the character of the girl.

3. It would be relevant to mention that the other accused Prashant Kumar and Rishu Singh against whom there was serious allegation, have been admitted to bail by a Bench of this Court in B.A.No.774 of 2011 on 07.03.2011 and B.A.No. 726 of 2011 on 10.03.2011 respectively but the bail of the petitioner was denied by the Principal Judge only on the ground that his release on bail would bring him in association of known criminals. The learned Sessions Judge also refused his prayer confirming the observation made by the Principal Judge.

4. I find from perusal of the F.I.R. that the only allegation against the petitioner was that the principal accused had transferred the nude photograph of the girl on the cell phone of the petitioner but no cell phone bearing nude 2. photograph could be recovered from the possession of the petitioner and I further find that the case of the petitioner does not come within the proviso of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 so as to deny the statutory right of the petitioner of his bail wherein his bail has been made rule and refusal exception.

5. In the circumstances, the petitioner Manish Kumar is directed to be released on executing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of the Juvenile Justice Board, Hazaribag in

connection with Rajrappa P.S. Case No. 70 of 2010, corresponding to G.R.No.2980 of 2010 with the conditions that the parents would be his bailers, who would take care of him and produce the petitioner before the J.J.Board preferably in the 1st week of each month till the conclusion of the enquiry or to the satisfaction of the J.J.Board. This Criminal Revision is accordingly allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com