

ARUN KUMAR

v.

THE STATE OF BIHAR AND ANR.
(Criminal Appeal No. 347 of 2008)

FEBRUARY 19, 2008

[DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

Trial:

Juvenile trial – Sessions Judge held that accused was not juvenile – Rejected his application seeking trial by Juvenile Justice Board – High Court allowed the application – On appeal, held: High Court failed to notice that at the time of framing charges, age of accused was recorded as major – Also difference in names in the documents produced by accused not explained by accused – High Court erred in allowing the application without giving reasons as to how the conclusions of trial Court suffered from any infirmity – Matter remitted to High Court for fresh consideration.

The Additional Sessions Judge held that the accused-respondent No.2 was not juvenile and, therefore, there was no need to refer his case to the Juvenile Justice Board for ascertaining his age and, then for trial. High Court held that the school leaving certificate and the mark sheet produced by accused show that he was juvenile and therefore his application should be allowed and directed the court below to consider the accused as a juvenile and to proceed accordingly.

In appeal to this court, informant contended that the documents produced had been analysed by the trial Court and it was categorically held that at the time of framing charge on observation it was noticed that he was major without any doubt; that name disclosed in the certificate filed was different; that Single Judge of the High Court

- A did not consider as to how the conclusions of the trial Court suffered from any infirmity and by merely referring to the stand of the accused and without analyzing the correctness or otherwise of the observations and conclusions made by the trial Court held that the accused was a juvenile.
- B

Allowing the appeal and remitting the matter to High Court, the Court

- C HELD: The High Court has failed to notice several relevant factors. Firstly, at the time of framing charges, the age of the accused was recorded as major. Similarly, the difference in names in the documents has not been explained by the accused. Further no discussion has been made as to how the conclusions of the trial Court suffered from any infirmity. Finally, no notice was issued to the appellant before the matter was disposed of. [Paras 5-7] [53-F, G; 54-A]
- D

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- E From the final Order dated 19.1.2007 of the High Court of Judicature at Patna in CrI. Misc. No. 2852/2007.

Ranjan Mukherjee and S.C. Ghosh for the Appellant.

- F Manish Kumar, Gopal Singh and Lakshmi Raman Singh for the Respondents.

The Judgment of the Court was delivered by

Dr. ARIJIT PASAYAT, J. 1. Leave granted.

- G 2. Challenge in this appeal is to the order passed by a learned Single Judge of the Patna High Court quashing the order passed by learned Additional District Judge, Fast Track Court Vth, Shekhpura. By the said order the learned Additional Sessions Judge held that respondent No.2-Munna Kumar was not juvenile and, therefore, there was no need to refer his case
- H

to the Juvenile Justice Board for ascertaining of his age and, then for trial. It was observed by the High Court that the prayer was rejected only on the ground that two or three witnesses were examined and though the accused was in possession of School Leaving Certificate, mark sheet etc. to show that he was a juvenile, the prayer could not have been rejected. The High Court in a very cryptic manner observed that the application of the accused deserved to be allowed and directed the court below to consider the accused as a juvenile and to proceed accordingly.

3. Learned counsel for the informant submitted that the documents produced had been analysed by the trial Court and it was categorically held that at the time of framing charge on observation it was noticed that he was major without any doubt. In the certificate filed his name was disclosed to be Priyatam Bihari though all through his name was stated to be Munna Kumar. Learned Single Judge of the High Court did not even consider as to how the conclusions of the trial Court suffered from any infirmity. Merely referring to the stand of the accused and even without analyzing the correctness or otherwise of the observations and conclusions made by the trial Court he came to hold that the accused was a juvenile. Additionally, the complainant was a party before the High Court but no notice was issued. There is no appearance on behalf of respondent No.2-accused.

4. Learned counsel for the State supported the stand of the informant.

5. The High Court has failed to notice several relevant factors. Firstly, at the time of framing charges, the age of the accused was recorded as major. Similarly, the difference in names in the documents has not been explained by the accused.

6. Further, as rightly contended by learned counsel for appellant, no discussion has been made as to how the conclusions of the trial Court suffered from any infirmity.

A 7. Finally, no notice was issued to the appellant before the mater was disposed of.

B 8. Above being the position, the impugned order of the High Court is set aside and the matter is remitted to it to consider the matter afresh and pass a reasoned order in accordance with law.

9. The appeal is allowed.

D.G.

Appeal allowed.