

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1465 OF 2013

(@ Special Leave Petition (Criminal) No.10661 of 2010)

Ranjeet Goswami

..... Appellant

Versus

State of Jharkhand & Anr.

..... Respondents

J U D G M E N T**K.S. RADHAKRISHNAN, J.**

1. Leave granted.

2. We notice with concern the commission of large number of crimes by the juveniles at a time when there is a hue and cry to lower the age limit of juvenile in conflict with law within the meaning of clause (l) of Section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2000. Claiming juvenility large number of applications are also

being filed before the criminal courts and age determination enquiry orders passed by the Board themselves result in several litigations right up to this Court. This case is also one among them in spite of the various directions given by this Court as to how to determine the age of a juvenile in conflict with law in **Ashwani Kumar Saxena v. State of M.P.** (2012) 9 SCC 750.

3. The appellant herein was charge-sheeted for the offences under Sections 376, 302 and 201 of the Indian Penal Code, along with three others. The appellant, after submission of the charge-sheet, surrendered before the court on 13.06.2008 and filed an application before the Chief Judicial Magistrate, Dumka on 17.06.2008 stating that on the date of occurrence i.e. 12/13.04.2008 he was a juvenile since his date of birth was 10.05.1991, as per the records kept in the Primary School, Benagadia.

4. The CJM, Dumka forwarded the said application to the Principal Magistrate, Juvenile Justice Board, Dumka (for short "the JJ Board") to conduct an appropriate enquiry and to

submit a report. The application was registered as GR Case No.577 of 2008. The appellant preferred a petition on 18.06.2008 before the Board to examine the Principal of Primary School, Benagadiya along with the admission register and also to examine the person in-charge of the Head Master, as well as the head mistress of Akmit School, Benagadia to prove his date of birth. Application was allowed on 23.06.2008, but on the same date, a fresh petition was filed on behalf of the respondent duly endorsed by the APP stating that the appellant had produced a forged copy of the admission register. Appellant examined Neela Hembrahm, who was the Head Mistress of the School since 17.8.2006, to prove the School Leaving Certificate issued on 10.4.2004, by the then Principal of the School, whose signature was identified and recognized. Applications dated 26.6.2008 and 31.7.2008 were also filed by the appellant for medical examination.

5. The JJ Board then sought the opinion of the Medical Board and the Board opined that the appellant was about 20

years of age on the date of the incident. There was some confusion whether the appellant and one Rajiv Ranjan Goswami was the same person, but it was found otherwise, and the School Leaving Certificate produced was not accepted. The JJ Board, however, accepted the report of the Medical Board and passed an order on 27.3.2009, rejecting the application holding that the appellant was not a juvenile on the date of occurrence. JJ Board then forwarded the report to the CJM. Learned CJM, on accepting the report, committed the case to the Sessions Court and it was registered as Case No.132 of 2009. Accused then preferred Criminal Miscellaneous Appeal No.71 of 2009 before the Sessions Judge, Dumka. Learned Sessions Judge took the view that the JJ Board had not assigned any cogent reasons for discarding the School Admission Register and then to accept the medical report. Learned Judge also took the view that there was conflicting evidence as to the age of the accused, hence the benefit of doubt should go to the accused. The appeal was accordingly allowed and the order passed by the court below was set aside and a direction was

given to recall the case from the Sessions Court to be tried by the JJ Board.

6. The respondent aggrieved by the order, approached the Division Bench of the High Court by way of Criminal Revision No.504 of 2009. The Criminal Revision was allowed and the order passed by the JJ Board was restored, setting aside the order dated 30.05.2009, passed by the Sessions Judge, Dumka.

7. Shri Shankar Narayanan, learned counsel appearing for the appellant submitted that the High Court has committed an error in reversing the judgment of the Sessions Judge without examining the correctness or otherwise on the school admission register, which will indicate that his date of birth is 10.05.1991 and hence a juvenile on the date of occurrence i.e. 12/13-04-2008. Learned counsel also submitted that the admission register was properly proved through the head mistress of the school and there is no reason to discard the same. Learned counsel submitted that the question of accepting the report of the medical board

arises only if the school leaving certificate is discarded by stating cogent reasons.

8. Shri Barun Kumar Sinha, learned counsel appearing for the respondent, on the other hand, submitted that the High Court has rightly accepted the report of the medical board which indicated that the accused was not a juvenile on the date of occurrence. Learned counsel pointed out that the medical board has assessed the age of the accused as 20 years on the date of occurrence i.e. 12/13-04-2008. Learned counsel also submitted that there was some confusion with regard to the documents produced, one document showed that the date of birth of one Rajiv Ranjan Goswami as 10.04.1990 though the appellant's date of birth was shown as 10.05.1991. It is due to that confusion the matter was referred to the medical board and medical board, in turn, opined that the age of the accused was 20 years on the date of occurrence.

9. We are of the view that no cogent reasons have been stated by the High court to discard the school leaving

certificate which was issued on 10.04.2004 by the then Principal of the school. The certificate reveals the date of birth of the accused as 10.05.1991. The school leaving certificate was proved by examining the head mistress of the school. She has recognized the signatures of the principal who issued the school leaving certificate. The evidence adduced by the head mistress was not challenged. Consequently, there is no reason to discard that document. Further, we notice that there was some confusion as to whether the appellant, whose name is Ranjeet Goswami is the same person Rajiv Ranjan Goswami. The investigating officer's report indicates that they are different persons. Consequently we have to take it that the school leaving certificate produced was in respect of the appellant which has been proved.

10. We, therefore, find no reason to reject the school leaving certificate. If that be so, as per the ratio laid down in ***Ashwani Kumar Saxena*** (supra) there is no question of subjecting the accused to a medical examination by a

.....J.
(K.S. Radhakrishnan)

.....J.
(A.K. Sikri)

New Delhi,
September 18, 2013