

CASE NO.:
Special Leave Petition (crl.) 2892 of 2007

PETITIONER:
Arun Kumar

RESPONDENT:
The State of Bihar and Anr

DATE OF JUDGMENT: 19/02/2008

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
J U D G M E N T

CRIMINAL APPEAL NO. OF 2008
(Arising out of SLP (Crl.) No.2892 of 2007)

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

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 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.

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

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.