



2024 INSC 50

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 64/2012

PRAMILA

APPELLANT(S)

VERSUS

STATE OF CHHATTISGARH

RESPONDENT(S)

J U D G M E N T

ABHAY S. OKA, J.

Heard the learned senior counsel appearing for the appellant and the learned counsel for the respondent/State.

The appellant has taken an exception to the judgment and order dated 3rd May, 2010 passed by the Division Bench of the High Court of Chhattisgarh. The appellant herein was the second appellant before the High Court. The appellant was convicted for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860 and sentenced to undergo life imprisonment.

The issue of juvenility was raised by the appellant in this Appeal during the course of hearing by filing an interlocutory application. Therefore, *vide* order dated 13th September, 2023, this Court directed the Sessions Court to hold an enquiry into that aspect of issue of juvenility. In terms of the order of this Court, the learned 1st Additional Sessions Judge, Ramanujganj, District Balrampur, Chhattisgarh, has submitted a finding dated 30th October, 2023, which records that the date of birth of the

appellant is 1st September, 1982 and, therefore, on 15th June, 2000, which is the date of the occurrence of the offence, the age of the appellant was 17 years, 09 months and 14 days. The statements of the witnesses as well as the documents produced on record during the inquiry have been forwarded to this Court.

A perusal of the report shows that apart from other documents, reliance has been placed on the entries in the school leaving register of the school last attended by the appellant. This document is of the year 1988. The name of the appellant appears at serial no.369 and her date of birth shown therein is 1st September, 1982. Even the primary certificate examination result-sheet of 1995 shows the same date of birth.

Therefore, we have to proceed on the footing that on the date on which the incident constituting the offence took place, the age of the appellant was less than 18 years. The Juvenile Justice (Care and Protection of Children) Act, 2000 (for short, "the 2000 JJ Act") was admittedly not in force when the incident occurred. Therefore, the case will be governed by the Juvenile Justice Act, 1986 (for short, "the 1986 JJ Act"). Under clause (h) of Section 2 of the 1986 JJ Act, a 'juvenile' has been defined to mean a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years. Thus, on the date of occurrence of the offence, the appellant was a juvenile. Therefore, the appellant ought to have been dealt with in accordance with Section 21 of the 1986 JJ Act. The maximum action which could have been taken against the appellant was of sending her to a special home. In the case of a girl of sixteen years of age, she could

have been sent to a special home for a period of not less than three years. As per Section 22(1) of the 1986 JJ Act, there was a prohibition on sentencing a juvenile to undergo imprisonment. There is a similar provision under Section 16 of the 2000 JJ Act.

In the present case, as can be seen from the order dated 6th January, 2012, the appellant had undergone incarceration for a period of more than eight years.

Hence, the present Appeal must succeed and the impugned judgment and order dated 3rd May, 2010 passed by the High Court and the impugned judgment and order dated 30th June, 2003 passed by the Additional Sessions Judge, Ramanujganj, District Sarguja, Chhattisgarh, are hereby quashed and set aside only insofar as the appellant (accused no.2) is concerned.

As the appellant has undergone incarceration for a period of more than eight years, no purpose will be served by sending the appellant before the Juvenile Justice Board.

The bail bonds of the appellant stand cancelled.

The Appeal is, accordingly, allowed.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
JANUARY 17, 2024.