

A

RANJIT SINGH

v.

STATE OF HARYANA

(Criminal Appeal No. 1458 of 2008)

SEPTEMBER 11, 2008

B

[DR. ARIJIT PASAYAT AND HARJIT SINGH BEDI, JJ.]

C

Juvenile Justice (Care and Protection of Children) Act, 2000 – s. 20 – Applicability of – Accused tried for commission of offence under IPC in 1993 – Age of accused more than 16 years on date of occurrence – Held: s. 20 deals with cases related to period when 1986 Act was in force – It provides that proceedings shall continue as if Act of 2000 is not in existence – Even if the definition of ‘juvenile’ has undergone change by fixing age to be 18 years, proceedings shall continue on the footing that accused was juvenile under 1986 Act – Thus, accused is not legally permissible to take the applicable age to be 18 years – Juvenile Justice Act, 1986.

D

E

In year 1993, the appellant-accused was tried for the commission of offences punishable under IPC. The trial court convicted and sentenced the appellant u/s 302 and 452 IPC. The appellant contended before the courts below that he was a juvenile in terms of the Juvenile Justice (Care and Protection of Children) Act, 2000, thus, should be tried under the 2000 Act and in any event, Juvenile Justice Act, 1986 was applicable. However, the courts below did not record any definite conclusion. Hence the present appeal.

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Appellant contended that though material was placed before the courts below to show that the accused appellant was a juvenile, but it did not substantially deal with that aspect.

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Respondent-State contended that even according

to the case of the accused-appellant, he was about 17 years of age at the time of occurrence and, thus, 1986 Act had no application to him; that for bringing the applicability of 1986 Act, the accused should have been 16 years or less in age at the time of occurrence; that the age of the accused-appellant was more than 16 years at the time of occurrence; that by the 2000 Act, age has been increased to 18 years; and that s. 20 of the 2000 Act was relevant.

Dismissing the appeal, the Court

HELD: Section 20 of the Juvenile Justice (Care and Protection of Children) Act, 2000 does not in any way help the appellant. It deals with cases where proceedings related to a period when 1986 Act was in force. What Section 20 provides is that the proceedings shall continue as if the Act is not in existence. To put it differently, even if under the Act, the definition of "juvenile" has undergone a change by fixing the age to be 18 years the proceedings shall continue on the footing that accused was a juvenile under the 1986 Act. What appellant contends is to reverse the situation i.e. take the applicable age to be 18 years. That is not legally permissible. (Para 8) [336 F-G]

Jameel v. State of Maharashtra 2007 (2) SCALE 32 – relied on.

Case Law Reference

2007 (2) SCALE 32 relied on Para 9

CRIMINALAPPELLATE JURISDICTION : Criminal Appeal No. 1458 of 2008

From the final Judgment and order dated 14/2/2007 of the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No. 682-DB of 1997

Sanjay Rathi, Jamshed Bey, Neha Gaur and Parmanand Gaur for the Appellant.

A Devinder Pratap Singh, A.A.G., Naresh Bakshi for the Respondent.

The Judgment of the Court was delivered by

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

B 2. The only point urged in support of the appeal was that the appellant was a juvenile at the time of commission of the offence and, therefore, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 (in short "the Act") had application to the facts of this case.

C 3. It is not necessary to go into the factual aspects in detail in view of the limited controversy raised. The appellant along with three co-accused persons faced trial for alleged commission of offences punishable under Sections 452/302 and 323 read with Section 34 of the Indian Penal Code, 1860
D (in short 'IPC') for the murder of one Wazir Singh (hereinafter referred to as 'deceased') on 1.8.1993. Learned Additional Sessions Judge, Rohtak, Haryana, convicted accused Ranjit Singh and Jai Singh for the commission of offences punishable under Sections 302 and 452 of IPC and each accused was
E sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- and in default of payment of fine to undergo further rigorous imprisonment of one year under Section 302 IPC, and also to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default of payment of fine to
F undergo further rigorous imprisonment for three months under Section 452 IPC. Accused Sher Singh was also convicted under Sections 323 and 452 IPC. He was sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default of payment of fine to undergo further
G rigorous imprisonment for three months under Section 452 IPC and also to undergo rigorous imprisonment for six months and to pay a fine of Rs.500/- and in default of payment of fine to undergo further rigorous imprisonment for one month under
H Section 323 IPC. All the sentences were directed to run concurrently. Accused Banto alias Satyawati was acquitted of all the charges by giving her the benefit of doubt.

4. All the accused persons, namely, Ranjit Singh, Jai Singh and Sher Singh filed appeal before the High Court being Criminal Appeal No.682-DB of 1997. During the pendency of the appeal before the High Court, accused Jai Singh died. For that reason, the appeal so far as he is concerned stood abated. The High Court reduced the sentence of Sher Singh to the period already undergone by him.

5. Before the Trial Court and the High Court the present appellant took the stand that he being a juvenile in terms of the Act, the trial should be held as provided under the Act and in any event, the Juvenile Justice Act, 1986 (in short "1986 Act") had application. The Trial Court and the High Court noted the submissions made by the appellant as regards his contention that he is a juvenile. Further, evidence adduced was also referred to but no definite conclusion as regards the applicability of the 1986 Act or the Act so far as the accused is concerned was recorded.

6. Learned counsel for the appellant submitted that though material was placed before the Trial Court and the High Court to show that the accused appellant was a juvenile, that aspect was not substantially dealt with by the Trial Court and the High Court.

7. In response to the submissions made by learned counsel for the appellant, learned counsel for the respondent-State submits that even, according to the case of the accused-appellant, he was about 17 years of age at the time of occurrence and, therefore, 1986 Act had no application to him. For bringing the applicability of 1986 Act, the accused should have been 16 years or less in age at the time of occurrence. Admittedly, the age of the accused-appellant was more than 16 years at the time of occurrence. By the Act, age has been increased to 18 years. It is submitted that Section 20 of the Act has relevance. The same reads as under:

"20. Special provision in respect of pending cases –
Notwithstanding anything contained in this Act, all

A proceedings in respect of a juvenile pending in any court
in any area on the date on which this Act comes into force
in that area, shall be continued in that court as if this Act
had not been passed and if the court finds that the juvenile
has committed an offence, it shall record such finding and
B instead of passing any sentence in respect of the juvenile,
forward the juvenile to the Board which shall pass orders
in respect of that juvenile in accordance with the provisions
of this Act as if it had been satisfied on inquiry under this
Act that a juvenile has committed the offence.

C Provided that the Board may, for any adequate and special
reason to be mentioned in the order, review the case and
pass appropriate order in the interest of such juvenile.

D Explanation. – In all pending cases including trial, revision,
appeal or any other criminal proceedings in respect of a
juvenile in conflict with law, in any court, the determination
of juvenility of such a juvenile shall be in terms of clause
(1) of Section 2, even if the juvenile ceases to be so on or
before the date of commencement of this Act and the
E provisions of this Act shall apply as if the said provisions
had been in force, for all purposes and at all material
times when the alleged offence was committed.”

8. Section 20 of the Act does not in any way help the
appellant. It deals with cases where proceedings related to a
F period when 1986 Act was in force. What Section 20 provides
is that the proceedings shall continue as if the Act (i.e. Act of
2000) is not in existence. To put it differently, even if under the
definition of “juvenile” has undergone a change by fixing the
age to be 18 years the proceedings shall continue on the footing
that accused was a juvenile under the 1986 Act. What appellant
G contends is to reverse the situation i.e. take the applicable age
to be 18 years. That is not legally permissible.

9. In *Jameel v. State of Maharashtra* (2007 (2) SCALE
32) it was held as follows:

"9. It was furthermore submitted that although the age of the appellant on the date of the occurrence was more than sixteen years but below eighteen years, having regard to the provision of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short "the 2000 Act"), it was imperative on the part of the Court to follow the procedures laid down therein.

13. So far as the submission of the learned counsel in regard to the applicability of the 2000 Act is concerned, it is not in dispute that the appellant on the date of occurrence had completed sixteen years of age. The offence having been committed on 16.12.1989, the 2000 Act has no application. In terms of the Juvenile Justice Act, 1986, "juvenile" was defined to mean "a boy who had not attained the age of sixteen years or a girl who had not attained the age of eighteen years."

10. Above being the position, appeal is without merit and is dismissed.

N.J.

Appeal dismissed.