
(2006) 10 AHC CK 0205
In the Allahabad High Court

Gagan Gupta

APPELLANT

Vs

State of U.P. and Badri Vishal Shukla

RESPONDENT

Date of Decision : 26-10-2006

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 20, 64, 69
Penal Code, 1860 (IPC) — Section 302

Citation : (2006) 10 AHC CK 0205

Hon'ble Judges : V.D. Chaturvedi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

V.D. Chaturvedi, J.—This Criminal revision has been filed against the order dated 15.02.05 passed by Sri V.P. Singh, Additional Sessions Judge, Kanpur Nagar in S.T. No. 949 of 2003 whereby he has rejected the revisionist's application for declaring him as juvenile.

2. The relevant facts are briefly that revisionist Gagan Gupta, an accused in Sessions Trial No. 949 of 2003 u/s 302 I.P.C., moved an application dated 19.6.2004 stating therein that his date of birth was 15.7.1982; that the occurrence of murder took place on 18.10.1998; that he was below 18 years of age on the date of commission of the offence and that under the Juvenile Justice (Care and Protection of Children) Act 2000 he was entitled to be declared as juvenile. The learned Addl. Sessions Judge, seized of the case, rejected the revisionist's application on the ground that the revisionist was 16 years and three months old at the time of commission of the offence and that the Juvenile Act of 1986 (Prevailing at that time) provided the protection only to those, who were not above the age of 16 years on the date of occurrence. Feeling aggrieved by the said order, the accused revisionist has filed this revision.

3. I have heard Sri Sarvesh, learned Counsel for the revisionist and the learned A.G.A. for the state of U.P. and have perused the record.

4. The learned Counsel for the revisionist relied upon the pronouncement of the Hon''ble Apex Court given in Pratap Singh v. State of Jharkhand and Anr. reported in 2005 SCC 742 and drew my attention to para Nos. 106 and 111 of the said pronouncement. The Hon''ble Apex Court held in Para No. 106 of the cited case that "...it should be read in such a fashion so that the extended benefit can be granted even to the Juvenile under the 2000 Act. Further more Sub-section (2) of Section 69 provides that all proceedings shall be deemed to have been held under the new Act. This is also suggestive of the fact that the new Act would apply to the proceedings which was initiated under the 1986 Act." In para No. 111, the Hon''ble Apex Court directed that "The court, therefore, must determine the age of the appellant herein keeping in view our aforementioned findings that the relevant date for reckoning the age of the juvenile would be the date of occurrence and not the date on which he was produced before the Board."

5. The learned A.G.A has relied upon the judgment given by the Hon''ble Supreme Court in Vijendra Singh v. State of Haryana and Ors. repotted in Judicial Interpretation on Crimes 2005(2) page 102. The Hon''ble Supreme court held in para 13 of the said judgment:

Section 20 of the 2000 Act would,therefore, be applicable when a person is below the age of 18 years as on 1.4.2001. For the purpose of attracting Section 20 of the said Act, ft must be established that (i) on the date of coming into force the proceedings in which the petitioner was accused was pending and (ii) on that day he was below the age of 18 years. For the purpose of the said Act, both the aforementioned conditions are required to be fulfilled. By reason of the provisions of the 2000 Act the protection granted to a juvenile has only been extended but such extension is not absolute but only a limited one. It would apply strictly when the conditions precedent therefore as contained in Section 20 or Section 64 are fulfilled.

6. In para 20 of this judgment the Hon''ble Apex Court further held that;

Provisions of 2000 Act would be applicable to those cases initiated and pending trial/inquiry for the offences committed under 1986 Act provided that the person had not completed 18 years of age as on 1.4.2001. In the instant case undisputedly the respondent No. 2 accused had completed 18 years of age before 1.4.2001.

7. The date of birth of accused revisionist Gagan Gupta was 5.7.1982. Thus on the date of commission of offence i.e. 18.10.1998 he was above the age of 16 years which was the age prescribed for juvenile, under the Juvenile Justice Act, 1986. The New Act came into force on 1.4.2001. The proceedings against the revisionist Gagan Gupta were pending on the said date i.e. 1.4.2001. But on 1.4.2001, the revisionist had crossed the age of 18 years. On 1.4.2001 Gagan Gupta (revisionist) was more than 18 years old. Thus the revisionist does not fulfill the second condition, laid down by Hon''ble Apex Court in Vijendra Singh's

case. Thus the revisionist was not entitled to be declared as juvenile either under the 1986 Act or under 2000 Act. I, therefore, find no merit in the revision.

8. The revision is dismissed.

9. Certify the judgment to the trial court.