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ABDUL MANNAN AND ORS.

v.

STATE OF WEST BENGAL

DECEMBER 5, 1995

B

[K. RAMASWAMY, FAIZAN UDDIN AND B.N. KIRPAL, JJ.]

Code of Criminal Procedure, 1973 :

S.9—Sessions Judge—Held, includes Additional Sessions Judge.

C

Juvenile Justice Act, 1986/West Bengal Children Act, 1959 :

Ss.2(3),—s.2(h) —Delinquent juveniles—Committing offences punishable under s.302 IPC—Juvenile Court not constituted—Trial conducted by Additional Sessions Judge—Pending proceedings juveniles became adults—Held, benefit of Central Act denied to them due to their own act of keeping trial pending by protracting litigation—Not proper to interface as no useful purpose under Central Act would be served.

D

E

The appellants, alongwith others, were charged with various offences including the offence punishable under s.302 I.P.C. On the date of the commission of the offence and at time of the trial they were children under the provisions of the West Bengal Children Act, 1959 and were required to be tried by the juvenile court. However, juvenile court was not constituted and the trial was conducted by the Additional Sections Judge. Pending proceedings Juvenile Justice Act, 1986 came into force and the State Act stood repealed. The trial continued to be conducted by the Additional Sessions Judge. A plea was raised on behalf of appellants that the Additional Sessions Judge was not a Sessions Judge and, therefore, he could not proceed with the trial. The plea was rejected by the courts below. Aggrieved, the appellants filed the appeal.

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Dismissing the appeal, this Court

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HELD : 1. In view of ss.9(1) and 9(2) of the Code of Criminal Procedure 1973, Sessions Judge would include Additional Sessions Judge and the latter gets all the powers and jurisdiction of the Sessions Judge to try the offences enumerated under the Code. The Additional Sessions

Judge, therefore, is competent to proceed with the trial of the juvenile offenders. [226-C] A

2. Though at the relevant time the appellants were juveniles, by passage of the time they have become adults. The benefit of the Central Act was rightly denied to them due to their own act of keeping the trial pending by protracting litigation. Interference at this stage would serve no useful purpose. [226-E] B

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1743 of 1995. C

From the Judgment and Order dated 11.1.89 of the Calcutta High Court in Crl. R. No. 31 of 1989.

S.R. Bhat for the Appellants.

D.N. Mukherjee for Sinha & Das for the Respondent. D

The following Order of the Court was delivered :

Leave granted.

This is an appeal against the order dated January 11, 1989 passed by the Calcutta High Court in Criminal Revision No. 31 of 1989. In Sessions Case No. 63A of 1981 on the file of the Additional Sessions Judge, 11 persons including the appellants are facing trial. E

The appellants herein were charged for various offences including the offence of murder punishable under Section 302, Indian Penal Code. Now it transpires that on the date of the commission of the offence these appellants were under the age of 17 and 18 years. Since they were children under the provisions of the West Bengal Children Act, 1959 [for short, "the Act"], they were required to be tried by the Juveniles Court but no such court had been constituted. Subsequently, pending proceedings Juveniles Justices Act, 1986 has come into force and the Act stood repealed. Even under the Act, trial of the juvenile offenders requires to be conducted by the Juveniles Court. Since no court has been constituted even under the Central Act the necessary consequences would be that the Sessions Judge had to conduct the trial. F. G H

- A Contention was raised in the courts below that the Additional Sessions Judge is not a Sessions Judge and that, therefore, he could not proceed with the trial. The contention was rejected and thus this appeal by special leave against the impugned order dated January 11, 1989. Section 9 [1] of the Code of Criminal Procedure, 1973 [Act 21 of 1974] [for short, "the Code"] enjoins the State Governments to establish a Court of Session for every sessions division. It is made clear by sub-section [3] of Section 9 which provides that Additional Sessions Judges may be appointed by the High Court to exercise jurisdiction in a Court of Session. Singular includes plural. Session Judge would include Additional Sessions Judge under the Code. Therefore, he gets all the power and the jurisdiction of the Sessions Judge to try the offences enumerated under the code. The Additional Session Judge, therefore, is competent to proceed with the trial of the juvenile offenders. Even though at the relevant time the appellants were juveniles, by passage of time no longer remained to be juvenile offenders. They are now in mid thirties.
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- C
- D The object of the Juvenile Justice Act is to reform and rehabilitate the juvenile offenders as useful citizens in the society. In the facts and circumstances of the case, the benefit of the Central Act was denied to them due to their own act of keeping the trial pending by protracting litigation, kept the case pending trial and in the meanwhile the appellants had crossed the age of the juvenile offenders and became adults. We do not think it is a proper case for our interference as no useful purpose under Central Act would serve.
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The appeal is accordingly dismissed.

F R.P.

Appeal dismissed.