

A KAMLENDRA SINGH @ PAPPU SINGH

v.

STATE OF M.P.

(Criminal Appeal No. 451 of 2013)

MARCH 15, 2013

B

[K.S. RADHAKRISHNAN AND DIPAK MISRA, JJ.]

Juvenile Justice (Care and Protection of Children) Act, 2000 – Conviction u/s. 307 IPC – Plea of juvenility before Supreme Court – Held: The accused was a juvenile on the date of the incident – Therefore, sentence awarded by courts below set aside – Case records directed to be placed before the Juvenile Justice Board – Penal Code, 1860 – s.307.

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D Appellant-accused filed the present appeal challenging his conviction u/s. 307 IPC. He pleaded to be a juvenile on the date of the incident. In order to substantiate his plea, he produced High School Board Marksheet/certificate and a copy of admission register. The documents were verified by the Police as genuine.

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Allowing the appeal, the Court

F HELD: 1. As per the documents, viz. High School mark sheet/certificate and the school admission register, the appellant was a juvenile on the date of the incident. The principle laid down in the **Ashwini Kumar* case squarely applies to the facts of the present case. Therefore, the sentence awarded by the trial court, confirmed by the High Court is set aside and the case records are directed to be placed before the concerned Juvenile Justice Board for awarding the appropriate sentence. [Para 7] [238-E-G]

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**Ashwani Kumar Saxena v. State of M.P. (2012) 9 SCC 750: 2012 (10) SCR 540 – relied on.*

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Case Law Reference:

2012 (10) SCR 540 relied on **Para 7**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No: 451 of 2013.

From the Judgment & Order dated 17.07.2012 of the High
Court of Madhya Pradesh, Jabalpur, M.P. in Criminal Appeal
No. 2443 of 1997.

S.K. Dubey, Rajesh, D. Singh, Y. Tiwari for the Appellant.

Vibha Datta Makhija for the Respondent.

The Judgment of the Court was delivered by

K.S. RADHAKRISHNAN, J. 1. Leave granted.

2. The appellant, along with two others, were charge
sheeted for offences punishable under Sections 341, 294, 307
read with Section 34 IPC for conspiring to murder of one Atul
Mishra on 27.8.1993 in Rewa at Allahabad Road, near Kalewa
Hotel. For the said purpose, the appellant accused gave a
country made pistol to the accused Raj Kumar Singh and
exhorted him to shoot Atul Mishra. Raj Kumar Singh fired at Atul
Mishra with the said country made pistol and he succumbed
to his injuries.

3. The trial Court convicted him under Sections 341, 307
read with Section 34 IPC, but acquitted him of the charges
under Section 294 IPC. For the offence under Section 341 IPC,
he was sentenced to undergo rigorous imprisonment for one
month and for the offence under Section 307 IPC, he was
sentenced to rigorous imprisonment for one year along with a
fine of Rs.500/-. Both the sentences were directed to run
concurrently.

4. On appeal, the High Court set aside the conviction and
sentence for the offence punishable under Section 341 IPC, but
the conviction as well as the sentence awarded for offence
punishable under Section 307 IPC was maintained, against

A which this appeal has been preferred.

5. Shri S.K. Dubey, learned senior counsel appearing for the appellant, submitted that the appellant was a juvenile on the date of the incident i.e. 27.8.1993, though the claim of juvenility was not raised either before the trial Court or the High Court.
 B In order to establish the date of birth of the accused, the High School Board Mark-sheet /Certificate and a copy of the admission register were produced before this Court. Those documents would indicate that on the date of the incident, the date of birth of the accused is 25.2.1977. If that be so, the age
 C of the accused on the date of the incident was 16 years 6 months and 2 days.

6. When the matter came up for hearing on 9.11.2012, this Court directed the State of Madhya Pradesh to find out whether the appellant was a juvenile on the date of the incident and the veracity of the documents mentioned above. The State
 D Government got those documents verified through the Additional Superintendent of Police and reported that the documents are genuine.

7. Going by those documents, evidently, the date of birth of the appellant is 25.2.1977. If that be so, the appellant was a juvenile on the date of the incident. We have extensively examined the provisions of the Juvenile of Justice (Care and Protection of Children) Act, 2000 in *Ashwani Kumar Saxena*
 E *v. State of M.P.* (2012) 9 SCC 750 and we are of the view that the principle laid down in the above judgment squarely applies to the facts of the present case. Under such circumstances, we
 F are inclined to set aside the sentence awarded by the trial Court, confirmed by the High Court and the case records are directed to be placed before the concerned Juvenile Justice
 G Board for awarding the appropriate sentence. Ordered accordingly.

8. The appeal is allowed as above.

H K.K.T.

Appeal allowed.