

EXAMINING THE LEGAL DIMENSIONS OF DEVILAL AND OTHERS V. STATE OF MADHYA PRADESH

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ABSTRACT:

As per the fact of the case, at the commission of crime in 1998, the Juvenile Justice Act 1986 was in force, which stated that any person below the age of 16 was considered a juvenile. The age of Amrat Ram, the second son of Devilal, was 16 years, 11 months and 26 days at the time of commission of the offence. And the accused therefore, clearly wasn't a juvenile within the meaning of Juvenile Justice Act 1986. But this age was raised to 18 in terms of provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000. The Supreme Court had directed the sessions court to investigate this issue of juvenility and submit the report.

In adherence to the Sections 34, 302 and 342 of Indian Penal Code and Juvenile Justice Act 1986 and Section 20 of Juvenile Justice Act 2000, There is need to understand *ratio decidendi* and arguments of the Supreme Court, High Court of Madhya Pradesh and Trial Court for the purpose of this case. Section 20 of the Juvenile Justice Act 2000 gave justice to Amrat Ram since the age of juvenile given in the Act of 1986 was raised from 16 to 18 in Act 2000. Because of this change, an inquiry was filed in 2018 into this issue and it was found that at the time of the commission of the offence, Amrat was a juvenile within the meaning of Juvenile Justice Act 2020. A number of case laws were discussed pertaining to juvenility (listed above) and Hari Ram vs. State of Rajasthan acted as an impetus to raise the issue juvenility for the first time before the court. The Court decided to set aside the sentence of life imprisonment imposed upon Amrat Ram, for which he was charged guilty before. The court decided to remit the matter to the concerning authority i.e., jurisdictional Juvenile Justice Board for determining an appropriate quantum of fine that should be levied on the accused Amrat Ram. And thus, the appeal was decided on 25th February 2021 by the Supreme Court of India. In this case the analysis of this case is done with facts of the case, main issue and overall analysis of the judgement.

Keywords: *Commission of Crime, Juvenile Justice, Ratio Decidendi, Juvenile Justice Board*

1.1 INTRODUCTION

It is a general presumption that the young minds should be treated with care as there is a habit to respond quickly in a serious manner with frustration which leads to a crime. It has been observed in recent years that the ratio of crime held by young children is risen in past 10 years. It can be said that the psychological effect behind commitment of such crimes.

When a crime committed by a Juvenile then the first issue arises that the person committed the said crime is Juvenile or Not? To deal with such issues Juvenile Justice Act 1986 was enacted earlier wherein the age of Juvenile was 16 years for boys and 18 years for girls. Thereafter an amendment was made therein in the year 2000 wherein the universal age has

been declared as 18 for Juvenile and subsequently, in the year 2015. These amendments have raised several questions regarding determination of Juvenility on pending for adjudication cases. This issue has been decided recently in “**Devilal and Ors vs. State of Madhya Pradesh**”¹.

1.2 DESCRIPTION OF CASE

A. FACTS

In the year 1998, a quarrel happened between Devilal and Ganeshram. In the evening when Ganeshram reached in front of the house of Devilal Gurjar then Devilal came with his two sons and attacked Ganeshram from Kulhari with intention to kill. The appellants, Devilal and his two sons, were accused of murdering Ganeshram in a district of Madhya Pradesh in July 1988 which was a result of an alleged caste-based quarrel.

B. LEGAL HISTORY

Trial Court found that the FIR, dying declaration, statements witnesses and recoveries proves the case against accused Devilal, Gokul and Amrat Ram. By its judgment and order dated 01.05.1999, the trial Court convicted them under Sections 302 read with 34 IPC and sentenced to suffer imprisonment for life with fine of Rs.5,000/- each, in default whereof to undergo further imprisonment for two years.

Thereafter in appeal Devilal, Gokul and Amrat Ram in the High Court pleaded that the medical evidence on record and the statement of PW9-Dr. Kothari, it was unlikely that the deceased could have made any statement before the police, on the basis of which the FIR was recorded in the present case. Appellants further pleaded that it is admitted by PW1 cross-examination that the witnesses were tutored but the same was not accepted by the High Court. The High Court confirmed the conviction.

C. MAIN LEGAL ISSUE

It was contended before the Supreme Court that the accused Amrat Lal was a juvenile on the day the offence was committed and in the light of the decision of Supreme Court in “**Hari Ram vs. State of Rajasthan and another**”², the submission of his juvenility could be raised for the first time before this Court.

It was contended before the supreme court that in 1998 the Juvenile Justice Act 1986 was in force, which stated that any person below the age of 16 was considered a juvenile and the accused Amrat Ram, was 16 years, 11 months and 26 days at the time of commission of the crime. Therefore, he clearly wasn't a juvenile within the meaning of Juvenile Justice Act 1986. But this age was raised to 18 in terms of provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 and the accused Amrat Ram sought relief under Section 20³ of the Act of 2000.

D. DISCUSSIONS:

Supreme Court has directed to the Sessions Judge for conducting an inquiry on the issue of juvenility of Amrat Ram. It was stated in the inquiry report is that the statement of Assistant

¹ 2021 (5) SCC 292

² (2009) 13 SCC 211

³ Juvenile Justice (Care and Protection of Children) Act, 2000, S 20- Special provision in respect of pending cases.- Notwithstanding anything contained in this Act, all 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 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.

Teacher, Government Primary School, Khushalpur, were recorded and the documents were considered, whereafter, it was found that the date of birth of accused Amrat Ram was 23.03.1981 and that he was 16 years 11 months and 26 days on the date of offence.

When the incident occurred in July, 1998 at that point of time the Juvenile Justice Act, 1986 was in force as per this act the age of juvenility for a male juvenile was 16 years. Since Amrat Ram was 16 years 11 months as on the date when the offence was committed, he was certainly not a juvenile within the meaning of 1986 Act. However, the age of juvenility was raised to 18 years in terms of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000.

Supreme Court has considered in various cases that the question as to what extent benefit can be given in terms of the provisions of the 2000 Act, was considered by this Court in some cases.

In the case of *Mumtaz alias Muntyaz vs. State of Uttar Pradesh (now Uttarakhand)*⁴, the Hon'ble Supreme Court noted their earlier decisions wherein the effect of Section 20 of Act of 2000 was considered in *Pratap Singh v. State of Jharkhand*⁵

“31. Section 20 of the Act as quoted above deals with the special provision in respect of pending cases and begins with a non obstante clause. The sentence ‘notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act came into force’ has great significance. The proceedings in respect of a juvenile pending in any court referred to in Section 20 of the Act are relatable to proceedings initiated before the 2000 Act came into force and which are pending when the 2000 Act came into force. The term “any court” would include even ordinary criminal courts. If the person was a “juvenile” under the 1986 Act the proceedings would not be pending in criminal courts. They would be pending in criminal courts only if the boy had crossed 16 years or the girl had crossed 18 years. This shows that Section 20 refers to cases where a person had ceased to be a juvenile under the 1986 Act but had not yet crossed the age of 18 years then the pending case shall continue in that court as if the 2000 Act has not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, shall forward the juvenile to the Board which shall pass orders in respect of that juvenile.”

In the case of *Bijender Singh v. State of Haryana*⁶, the legal position of the Section 20 was stated:

“8. One of the basic distinctions between the 1986 Act and the 2000 Act relates to the age of males and females. Under the 1986 Act, a juvenile means a male juvenile who has not attained the age of 16 years, and a female juvenile who has not attained the age of 18 years. In the 2000 Act, the distinction between male and female juveniles on the basis of age has not been maintained. The age-limit is 18 years for both males and females.

9. A person above 16 years in terms of the 1986 Act was not a juvenile. In that view of the matter the question whether a person above 16 years becomes “juvenile” within

⁴ (2016) 11 SCC 786

⁵ [Pratap Singh v. State of Jharkhand, (2005) 3 SCC 551: 2005 SCC (Cri) 742]

⁶ [Bijender Singh v. State of Haryana, (2005) 3 SCC 685 : 2005 SCC (Cri) 889]

the purview of the 2000 Act must be answered having regard to the object and purport thereof.

10. In terms of the 1986 Act, a person who was not juvenile could be tried in any court. Section 20 of the 2000 Act takes care of such a situation stating that despite the same the trial shall continue in that court as if that Act has not been passed and in the event, he is found to be guilty of commission of an offence, a finding to that effect shall be recorded in the judgment of conviction, if any, but instead of passing any sentence in relation to the juvenile, he would be forwarded to the Juvenile Justice Board (in short “the Board”) which shall pass orders in accordance with the provisions of the Act as if it has been satisfied on inquiry that a juvenile has committed the offence. A legal fiction has, thus, been created in the said provision. A legal fiction as is well known must be given its full effect although it has its limitations. ...

11.

12. Thus, by reason of legal fiction, a person, although not a juvenile, has to be treated to be one by the Board for the purpose of sentencing, which takes care of a situation that the person although not a juvenile in terms of the 1986 Act but still would be treated as such under the 2000 Act for the said limited purpose.”

In the case of ***Dharambir v. State (NCT of Delhi)***⁷ the determination of juvenility even after conviction was discussed:

“11. It is plain from the language of the Explanation to Section 20 that in all pending cases, which would include not only trials but even subsequent proceedings by way of revision or appeal, etc., the determination of juvenility of a juvenile has to be in terms of clause (1) of Section 2, even if the juvenile ceases to be a juvenile on or before 1-4-2001, when the 2000 Act came into force, and the provisions of the Act would apply as if the said provision had been in force for all purposes and for all material times when the alleged offence was committed.

12. Clause (1) of Section 2 of the 2000 Act provides that “juvenile in conflict with law” means a “juvenile” who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence. Section 20 also enables the court to consider and determine the juvenility of a person even after conviction by the regular court and also empowers the court, while maintaining the conviction, to set aside the sentence imposed and forward the case to the Juvenile Justice Board concerned for passing sentence in accordance with the provisions of the 2000 Act.”

That in case of ***Kalu v. State of Haryana***⁸ the Hon’ble Supreme Court observed that:

“21. Section 20 makes a special provision in respect of pending cases. It states that notwithstanding anything contained in the Juvenile Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which the Juvenile Act comes into force in that area shall be continued in that court as if the Juvenile Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and 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 the Juvenile Act as if it had been satisfied on

⁷ [Dharambir v. State (NCT of Delhi), (2010) 5 SCC 344 : (2010) 2 SCC (Cri) 1274]

⁸ [Kalu v. State of Haryana, (2012) 8 SCC 34 : (2012) 3 SCC (Cri) 761]

inquiry under the Juvenile Act that the juvenile has committed the offence. The Explanation to Section 20 makes it clear that in all pending cases, which would include not only trials but even subsequent proceedings by way of revision or appeal, the determination of juvenility of a juvenile would be in terms of clause (1) of Section 2, even if the juvenile ceased to be a juvenile on or before 1-4-2001, when the Juvenile Act came into force, and the provisions of the Juvenile Act would apply as if the said provision had been in force for all purposes and for all material times when the alleged offence was committed.”

The Hon’ble Supreme Court further observed that in the case of “Jitendra Singh v. State of U.P., having found the juvenile guilty of the offence with which he was charged, in accordance with the law laid down by this Court as stated above, the matter was remanded to the jurisdictional Juvenile Justice Board constituted under the 2000 Act for determining appropriate quantum of fine. The view taken therein is completely consistent with the law laid down by this Court and in our opinion the decision in Jitendra Singh v. State of U.P. does not call for any reconsideration. The subsequent repeal of the 2000 Act on and with effect from 15-1-2016 would not affect the inquiry in which such claim was found to be acceptable. Section 25 of the 2015 Act makes it very clear.”

E. JUDGEMENT

That after perusing several judgements the Hon’ble Supreme Court observed that “even if it is held that Amrat Ram was guilty of the offence with which he was charged, the matter must be remitted to the jurisdictional Juvenile Justice Board for determining appropriate quantum of fine that should be levied on Amrat Ram”.

The Hon’ble Supreme Court affirmed the view taken by the courts below and found the appellants guilty of the offence with which they were charged.

And while holding Amrat Ram to be juvenile in terms of the 2000 Act and guilty of the offence with which he was charged, the Supreme Court set aside the sentence of life imprisonment imposed upon Amrat Ram and remitted the matter to the jurisdictional Juvenile Justice Board for determining appropriate quantum of fine on Amrat Ram in as per the directions made under Jitendra Singh vs. State of U. P.⁹ by the Supreme Court.

1.3 CASE ANYLYSIS:

As going into the facts of the case as per Sections 34, 302 and 342 of Indian Penal Code and Juvenile Justice Act 1986 and Section 20 of Juvenile Justice Act 2000, and discussing advanced arguments of the Supreme Court, High Court of Madhya Pradesh and Trial Court for the purpose of this case. The Juvenile Justice Act act of 2000 under section 20 granted the benefit of juvenile to Amrat Ram as the age of juvenile given in the Act of 1986 was raised from 16 to 18 in the Juvenile Justice Act, 2000. Due to the amendment the inquiry conducted by order of the Supreme Court of India and report found that at the time of the commission of the offence, Amrat was a juvenile within the meaning of Juvenile Justice Act 2020. A number of case laws were discussed pertaining to juvenility and Hari Ram vs. State of Rajasthan acted as an impetus to raise the issue juvenility for the first time before the court as in the Hari Ram Case the Hon’ble Supreme Court observed that

“The Explanation which was added in 2006, makes it very clear that in all pending cases, which would include not only trials but even subsequent proceedings by way of revision or appeal, the determination of juvenility of a juvenile would be in terms of

⁹ (2013) 11 SCC 193

Clause (1) of Section 2, even if the juvenile ceased to be a juvenile on or before 1st April, 2001, when the Juvenile Justice Act, 2000, came into force, and the provisions of the Act would apply as if the said provision had been in force for all purposes and for all material times when the alleged offence was committed. In fact, Section 20 enables the Court to consider and determine the juvenility of a person even after conviction by the regular Court and also empowers the Court, while maintaining the conviction, to set aside the sentence imposed and forward the case to the Juvenile Justice Board concerned for passing sentence in accordance with the provisions of the Juvenile Justice Act, 2000.”

The Court decided to set aside the sentence of life imprisonment imposed upon Amrat Ram, for which he was charged guilty before. The court decided to remit the matter to the concerning authority i.e., jurisdictional Juvenile Justice Board for determining an appropriate quantum of fine.

Juvenility of a person may be claimed and recognised before any court on any stage, even the case has been finally disposed. Under Section 20 it is specifically provided the procedure which the court is required to adopt when such claim of juvenility is raised.

If we go through the *Bijender Singh Case*¹⁰ the Supreme Court held that Section 20 of the Act would be applicable when a person is below the age of 18 years as on 01.4.2001. It must be proved that when the incident happened the accused was juvenile, and below the age of 18 years and applicability of Section 20 of the J.J. Act 2000, must be on the aforementioned conditions.

In the case of *Eerati Laxman v. State of Andhra Pradesh*¹¹, the Supreme Court observed that if a calculation is made for a person’s age, birth date must be counted as a whole day and any specified age in law which will be computed as have been attained on the day preceding the anniversary of the birthday. And if we go through a Court’s legal day which starts at 12 O’ clock mid-night and continues till the following night.

The provisions under the Act of 2000 would be applicable in those cases which were initiated and pending trial/inquiry for the offences committed under the 1986 Act, provided that a person had not completed 18 years of age as on 1.4.2001.

Rajasthan High Court in the case of *Nasir Ali v. State of Rajasthan*¹² observed that the accused who set his wife ablaze causing her death was a juvenile at the time of incident and as per Rule 62 (2) of the Juvenile Justice Rules, could not be sentenced in under section 20 of the J.J. Act of 2000.

Delinquency and Juvenile Justice is not something which can be occurred in vacuum but in the social context. It helps in recognizing the individuals who makes such choices which they could have adequately understood and without thinking about its impact on them or in social context.

In the present case the Hon’ble Supreme Court has given benefit of Section 20 of Juvenile Justice Act 2000 to the accused Amrat Ram has set a path for those under trial prisoners who are being victim of law when they were Juvenile.

REFERENCES :

1. 2021 (5) SCC 292

¹⁰ Ibi 2009 AIR SCW 1409 d

¹¹ (2009) 3 SCC 337

¹² 2005 Cri LJ 4343

2. (2009) 13 SCC 211

3. Juvenile Justice (Care and Protection of Children) Act, 2000, S 20- Special provision in respect of pending cases.- Notwithstanding anything contained in this Act, all 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 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.

4. (2016) 11 SCC 786

5. Pratap Singh v. State of Jharkhand, (2005) 3 SCC 551: 2005 SCC (Cri) 742]

6. Bijender Singh v. State of Haryana, (2005) 3 SCC 685 : 2005 SCC (Cri) 889]

7. Dharambir v. State (NCT of Delhi), (2010) 5 SCC 344 : (2010) 2 SCC (Cri) 1274]

8. Kalu v. State of Haryana, (2012) 8 SCC 34 : (2012) 3 SCC (Cri) 761]

9. (2013) 11 SCC 193

10. 2009 AIR SCW 1409 d

11. 2005 Cri LJ 4343