



2026:AHC-LKO:74149-DB

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A.F.R.

Reserved on 25.09.2026

Delivered on 14.10.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**CRIMINAL APPEAL No. - 921 of 1981**

Ali Hasan

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

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|---------------------------|-------------------------------------------------------------------------------------------------------------|
| Counsel for Appellant(s)  | : S.C. Shukla, Arshad Ahsan Siddiqui,<br>Arun Sinha, G. Saran, S.b. Mathur,<br>V. Sharotria, Vivek Tripathi |
| Counsel for Respondent(s) | : Government Advocate, Anurag<br>Singh Chauhan, Arun Kumar Singh,<br>N.mohan                                |

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**Court No. - 11**

**HON'BLE ABDUL MOIN, J.  
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.**

1. Heard Sri Vivek Tripathi, learned counsel appearing for the appellants No. 5 and 6 as well as learned A.G.A. for the State.

2. This appeal has been preferred against the judgment and order dated 14.12.1981 passed by the Sessions Judge, Sultanpur in Sessions Trial No. 138/81 State vs. Ali Hasan, arising out of Case Crime No. 347/95 P.S. Achalganj, Unnao. By the impugned judgment, the trial

court convicted and sentenced the appellants Ali Hasan, Abdul Rahim, Mujeebur Rahman, Anwar, Siraj Ahmad, Abdul Waheed and Islam Ullah under Sections 302/149 of the Indian Penal Code (hereinafter referred to as I.P.C.) to life imprisonment, under Section 307/149 to ten years rigorous imprisonment, under Section 324/149 to four years rigorous imprisonment, under section 148 to three years rigorous imprisonment and under section 323/149 to one year rigorous imprisonment whereas appellant Abdul Rauf has been convicted under Sections 302/149 to life imprisonment, under section 307/149 to ten years rigorous imprisonment, under section 324/149 to four years rigorous imprisonment, under section 147 to two years rigorous imprisonment and under section 323 IPC to one year rigorous imprisonment.

3. The prosecution case in brief is that approximately three years prior to the occurrence, Nisar, the son of deceased Ali Sher, was murdered. In that murder case, deceased Shamshad, Dilsher, Abdul Rafiq, along with injured witnesses Sajjad (PW-1) and Sharafat (PW-2), were arrayed as accused. Prior to Nisar's murder, a dispute had also occurred between deceased Hamid Ullah and deceased Ali Sher involving an offence under Section 307 IPC, in which Hamid Ullah and others were acquitted. Due to these prior rivalries, the accused group harbored deep-seated resentment and sought revenge. The core incident took place on 28.09.1980 at about 8:00 AM on the Chak road adjacent to the fields of Ali Hasan in Village Pipri, P.S. Kurwar, District Sultanpur. The eight accused persons formed an unlawful assembly sharing a common object to murder Shamshad, Abdul Rafiq, Hamid Ullah, and Dilsher, as well as to inflict deadly injuries on Sharafat (PW-2) and simple injuries on Sajjad (PW-1) and Ashfaq. The members of the unlawful assembly were armed with deadly weapons, Ali Hasan, Abdul Rahim, Mujeebur Rahman, and Anwar carried spears (*ballam*); Siraj carried a *Baka*; Abdul Waheed carried a *Dharia*; Islam Ullah carried a country-made pistol (*katta*); and Abdul Rauf carried a *lathi*. While

deceased Shamshad along with his son Izhar was heading towards his field carrying manure in a basket (*palari*) and a spade (*kudal*), he was intercepted by the accused persons near Ali Hasan's field. On being intercepted by the accused persons the deceased Shamshad threw away the basket and spade and raised an alarm. His son Izhar also raised a hue and cry. The accused persons chased them and the deceased Shamshad and Siraj attacked him with a Baka and Abdul Waheed with Dharia, Abdul Rauf hit him with daav, and Ali Hasan thrust a spear (*ballam*) into his abdomen, causing Shamshad to fall on the spot. Upon hearing the hue and cry, Sajjad (PW-1), Sharafat (PW-2), Izhar (PW-3), Dilsher, Abdul Rafiq, Ashfaq, and Hamid Ullah rushed to the spot. Accused Islam Ullah exhorted the assembly to kill them all upon which all those who had come hearing the hue and cry began running to save their lives. The accused group chased and brutally attacked Dilsher, Abdul Rafiq, and Hamid Ullah with sharp and pointed weapons across adjacent fields (fields of Walli Md. and Samad), resulting in their deaths on the spot. During the clash, Abdul Rafiq managed to snatch the *ballam* from accused Anwar. Abdul Rafiq and Ashfaq then chased and injured Ali Sher (who later succumbed to his injuries). Injured witnesses Sajjad (PW-1), Sharafat (PW-2), and Ashfaq were also assaulted. Accused Islam Ullah fired his country-made pistol in the air to terrorize villagers before all the accused fled.

4. Following the incident, FIR was lodged at P.S. Kotwali, Sultanpur on 28.09.1980 at 3:10 PM on a written report being submitted by PW-1 Sajjad. Medical examinations of the injured persons were conducted on the same day between 5:15 PM and 7:00 PM at Sadar Hospital, Sultanpur by Dr. R. O. Mathur (PW-5). PW-2 Sharafat sustained stabbed, cut, and incised wounds injuries. Ashfaq sustained an incised wound injury. PW-1 Sajjad sustained a triangular cut wound on the left thumb. Investigation was taken over by Station Officer Jagannath Pandey (PW-8). Upon inspecting the scene, he prepared the inquest report for

Shamshad on 28.09.1980 (Ex. Ka-17 to Ka-20). On the next day, inquest reports for Abdul Rafiq, Dilsher, and Hamid Ullah were prepared (Ex. Ka-24 to Ka-36). The I.O. collected blood-stained and plain soil (Ex. Ka-22, Ex. Ka-37 to Ka-39), seized two blood-stained Dao found near Shamshad's body (Ex. Ka-21), recovered the basket, spade, and scattered manure from the road (Ex. Ka-23), and prepared the site plan (Ex. Ka-44).

5. On 01.10.1980, Dr. C. K. Gupta (PW-6) performed the post-mortem examination of Shamshad (Ex. Ka-8), Abdul Rafiq (Ex. Ka-9), and Dilsher (Ex. Ka-10), confirming multiple ante-mortem cut, incised, and stabbed wounds sufficient to cause death in the ordinary course of nature. Dr. R. K. Mathur (PW-5) conducted the autopsy on Abdul Hamid/ Hamid Ullah (Ex. Ka-4), noting 21 ante-mortem cut and stabbed wounds causing death due to shock and hemorrhage.

6. Upon completing the investigation, PW-8 submitted the Charge-sheet (Ex. Ka-45) against all eight accused persons. The Magistrate took cognizance of the offences and complied with the provisions of Section 207 of the Code of Criminal Procedure, 1973 (Cr.P.C.) by furnishing free copies of the police report and other prosecution documents to all accused persons. As the case involved offences punishable under Section 302 IPC, triable exclusively by the Court of Session, the Magistrate committed the case to the Sessions Court, Sultanpur, where charges were framed under Sections 302/149, 307/149, 324/149, 148, 147, and 323/149 IPC against the accused persons.

7. To establish its case, the prosecution examined eight witnesses PW-1 Sajjad-Injured Eye-Witness and Informant, PW-2 Sharafat ullah Injured Eye-Witness, PW-3 Izhar Eye-Witness, PW-4 Constable Ram Pyare, PW-5 Dr. R. K. Mathur, PW-6 Dr. C. K. Gupta, PW-7 Constable Dev Ram, PW-8 SO Jagannath Pandey Investigating Officer.

8. In their statements recorded under Section 313 Cr.P.C. accused Ali Hasan denied the prosecution allegations and pleaded that his brother Ali Sher was ploughing his field while he was weeding. He claimed Shamshad, Dilsher, Rafiq, Hamid Ullah, Ashfaq and Sharafat came armed to kill Ali Sher Ali. Upon Ali Hasan raising alarms, around 50–60 villagers gathered, attacked the aggressors, killed Shamshad and three others, and injured the attackers. He claimed he was arrested on the same day and coerced by the police. Remaining Accused (Abdul Rauf, Abdul Rahim, Mujeebur Rahman, Siraj, Abdul Waheed, Anwar, Islam Ullah) denied their presence and attributed their false implication to long-standing political/litigation enmity in the village.

9. The defence examined no witnesses in their favor. They only produced the Post-Mortem Report of deceased Ali Sher (Ex. Kha-1), which was proved during the cross-examination of Dr. R. K. Mathur (PW-5).

10. Upon evaluating the oral and documentary evidence, the trial court held that the date, time, and place of occurrence stood conclusively established by the eyewitness testimonies and prompt FIR. The testimonies of injured eyewitnesses PW-1 and PW-2, supported by PW-3, were natural, consistent, and fully corroborated by the medical evidence. The prosecution adequately explained the injuries sustained by deceased Ali Sher as acts of self-defence committed during the sudden assault. All accused persons formed an unlawful assembly with a common objective to commit murders and inflict injuries using deadly weapons. Consequently, the trial court convicted all eight accused persons as above mentioned.

11. Being aggrieved by the impugned judgment of the trial court the accused persons have preferred the present appeal.

12. The appeal only survives for appellants no.5 Siraj Ahmad and 6 Abdul Wahid as with regard to appellants no.1 to 4, 7 and 8 the appeal has already been abated vide orders dated 16.11.2022, 04.10.2010, 19.05.2018, 26.02.2016, 04.10.2010 and 26.02.2016 respectively.

13. During pendency of this appeal the appellant-convict Abdul Wahid @ Channan (appellant No.6) filed C. M. Application No. 46349 of 2017 and appellant-convict Siraj Ahmad (appellant No.5) filed C.M. Application No. 86284 of 2016 under Section 7 of the Juvenile Justice ( Care and Protection of Children) Act, 2000 (hereinafter referred to as “Act of 2000”), stating that on the date of occurrence the appellants-convict were juvenile.

14. It was argued that under Section 7A of Act of 2000, the plea of juvenility can be raised at any stage. It is expedient to extract provisions of Section 7A of Act, 2000 as below:

*“[7A. Procedure to be followed when claim of juvenility is raised before any court.—*

*(1) Whenever a claim of juvenility is raised before any court or a court is of the opinion that an accused person was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) so as to determine the age of such person, and shall record a finding whether the person is a juvenile or a child or not, stating his age as nearly as may be:*

*Provided that a claim of juvenility may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such claim shall be determined in terms of the provisions contained in this Act and the rules made thereunder, even if the juvenile has ceased to be so on or before the date of commencement of this Act.*

*(2) If the court finds a person to be a juvenile on the date of commission of the offence under sub-section (1), it shall forward the juvenile to the Board for passing appropriate orders and the sentence, if any, passed by a court shall be deemed to have no effect.]*

15. Considering the aforesaid, the Court vide order dated 06.01.2017 for appellant no.5 and vide order dated 20.09.2023 for appellant no.6 had required the Juvenile Justice Board (hereinafter referred to as the 'Board') to conduct an inquiry in the form of taking evidence regarding the claim of juvenility and to submit its report.

16. In pursuance thereof, the Board had submitted its reports dated 02.02.2017 and 27.11.2023 with regard to appellants no.5 and 6 namely Siraj Ahmad and Abdul Wahid respectively.

17. We have proceeded to consider the said reports.

18. Section 94 of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "Act, 2015") provides for presumption and determination of age of a juvenile. For ready reference, the same is reproduced herein under:

**94. Presumption and determination of age.**—(1) *Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under Section 14 or Section 36, as the case may be, without waiting for further confirmation of the age.*

(2) *In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining—*

(i) *the date of birth certificate from the school, or the matriculation or equivalent from the concerned examination Board, if available; and in the absence thereof;*

(ii) *the birth certificate given by a corporation or a municipal authority or a panchayat;*

(iii) *and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest*

*medical age determination test conducted on the orders of the Committee or the Board:*

*Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.*

*(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.*

**18.1.** Thus the process of age determination is provided in sub-section (2) of Section 94 which is identical to the procedure prescribed under sub-rule (3) of Rule 12 of the JJ Rules, 2007, which is extracted herein-below:

*“(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the Court or the Board or, as the case may be, the Committee by seeking evidence by obtaining-*

*(a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;*

*(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;*

*(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;*

*(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.*

*and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age*

*and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.”*

19. So far as the appellant no.5 namely Siraj Ahmad is concerned, before the Board the applicant Siraj Ahmad had produced the educational certificates pertaining to having studied from Class 1 to Class 5 in Primary School Mawaiya and the educational certificates pertaining to having studied from Class 6 to Class 8 in Hanfi Inter College, Rasoolabad. The son of the complainant had also put in an appearance before the Board and raised objections to the educational certificates as had been filed by Siraj Ahmad.

20. The applicant Siraj Ahmad filed his Aadhar Card, the educational certificates of having passed Class 5 in the year 1975 and SR Register of the said institution along with SR Register of Hanfi Inter College, Rasoolabad.

21. The prosecution failed to produce any witness in support of the objections.

22. The Board after considering the provisions of Rule 12(3)(a) of the Juvenile Justice (Care & Protection of Children) Rules, 2007, has considered the evidence led by the applicant Siraj Ahmad and has found the said documents to be genuine.

23. Likewise, the Board has considered the documents as were produced by the appellant no.6 namely Abdul Wahid which were copy of SR Register, Transfer Certificate of Class 5 and the High School Cross-list. The evidence pertaining to his Roll Number in the U.P. Board examination of Class 10 has also been considered, which have been found to be genuine.

24. We have perused the evidence as has been led before the Board with regard to appellants no.5 and 6. As per the said evidence and the documents on record, we find that the date of births of appellants no.5 and 6 are 25.11.1962 and 25.10.1962 respectively. When the date of incident is seen which is 28.09.1980, we find the appellants no.5 and 6 to be aged 17 years 10 months and 3 days and 17 years, 11 months and 3 days on the date of incident and as such they were juvenile on the date of incident. We hold accordingly.

25. The next question arises for our consideration is whether the conviction of appellants-convict is justified or not ?

26. Learned counsel for the appellants states that he does not intend to challenge the conviction of the appellants but prays that, keeping in view the law laid down by the Hon'ble Supreme Court in **Mumtaz v. State of U.P.- (2016) 11 SCC 786**, the sentence be set aside and the matter be remitted to the jurisdictional Juvenile Justice Board for determining the appropriate punishment as prescribed under the Juvenile Justice Act, 1986.

27. On the other hand, the learned AGA stated that reports have been submitted by the Board on 02.02.2017 and 27.11.2023. He does not dispute the proposition of law laid down by the Hon'ble Supreme Court in the case of **Mumtaz (supra)**.

28. From perusal of the record and the injury report of injured Sarafat, Ashfaq and Sajjad it emerges that they had been inflicted fatal blow of sharp edged weapon while autopsy report of Shamsad, Abdul Rafeeq and Dilsher shows that they had been inflicted many blows of deadly weapons on their vital parts of the body, resultantly they succumbed to the injuries. There are no contradictions between ocular and medical evidence.

29. The prosecution has examined the injured witness Sajjad (PW-1) and Sharafat (PW-2) and eye-witness Izhar. They have corroborated the

prosecution version. Their testimony is intact and they are sterling quality, therefore, no reason arises to disbelieve the veracity of the witnesses. The presence of the injured and deceased and the appellants-convict on the place of occurrence, manner and mode of the assault has been sufficiently proved by the prosecution.

30. Learned trial Court on the basis of the evidence adduced by the prosecution observed and concluded that appellants-convicts are responsible for committing the offence along with other co-accused persons, consequently they have been held guilty for the offence they have been charged.

31. Thus, we find no perversity or illegality in the impugned judgment and conviction of the appellants-convicts.

32. In the circumstances of the case, no interference in the finding recorded by the trial Court is warranted, regarding conviction of appellants-convict.

33. After recording finding of conviction of appellants-convicts, the next point which arises before us for consideration is as to what sentence would be appropriate to the appellants-convicts ?

34. In this regard, it would be apt to refer to the judgment of the Hon'ble Supreme Court in **Mumtaz (supra)**, wherein the Hon'ble Supreme Court also considered the interplay of the Juvenile Justice Act, 1986 and the Act of 2000, and the procedure to be adopted when a claim of juvenility is raised during the pendency of a criminal appeal.

35. The Hon'ble Supreme Court held as under:

*18. The effect of Section 20 of the 2000 Act was considered in Pratap Singh v. State of Jharkhand [Pratap Singh v. State of Jharkhand, (2005) 3 SCC 551 : 2005 SCC (Cri) 742] and it was stated as under : (SCC p. 570, para 31)*

*“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.”*

*19. In Bijender Singh v. State of Haryana [Bijender Singh v. State of Haryana, (2005) 3 SCC 685 : 2005 SCC (Cri) 889] , the legal position as regards Section 20 was stated in the following words : (SCC pp. 687-88, paras 8-10 & 12)*

*“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 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.”*

**20.** *In Dharambir v. State (NCT of Delhi) [Dharambir v. State (NCT of Delhi), (2010) 5 SCC 344 : (2010) 2 SCC (Cri) 1274] the determination of juvenility even after conviction was one of the issues and it was stated : (SCC p. 347, paras 11-12)*

*“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 (l) 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 (l) 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.”*

**21.** *Similarly in Kalu v. State of Haryana [Kalu v. State of Haryana, (2012) 8 SCC 34 : (2012) 3 SCC (Cri) 761] this Court summed up as under : (SCC p. 41, para 21)*

*“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 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 (l) 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.”*

*22. It is thus well settled that in terms of Section 20 of the 2000 Act, in all cases where the accused was above 16 years but below 18 years of age on the date of occurrence, the proceedings pending in the court would continue and be taken to the logical end subject to an exception that upon finding the juvenile to be guilty, the court would not pass an order of sentence against him but the juvenile would be referred to the Board for appropriate orders under the 2000 Act. What kind of order could be passed in a matter where claim of juvenility came to be accepted in a situation similar to the present case, was dealt with by this Court in *Jitendra Singh v. State of U.P.* [*Jitendra Singh v. State of U.P.*, (2013) 11 SCC 193 : (2013) 4 SCC (Cri) 725] in the following terms : (SCC pp. 210-11, para 32)*

*“32. A perusal of the “punishments” provided for under the Juvenile Justice Act, 1986 indicate that given the nature of the offence committed by the appellant, advising or admonishing him [clause (a)] is hardly a “punishment” that can be awarded since it is not at all commensurate with the gravity of the crime. Similarly, considering his age of about 40 years, it is completely illusory to expect the appellant to be released on probation of good conduct, to be placed under the care of any parent, guardian or fit person [clause (b)]. For the same reason, the appellant cannot be released on probation of good conduct under the care of a fit institution [clause (c)] nor can he be sent to a special home under Section 10 of the Juvenile Justice Act, 1986 which is intended to be for the rehabilitation and reformation of delinquent juveniles [clause (d)]. The only realistic punishment that can possibly be awarded to the appellant on the facts of this case is to require him to pay a fine under clause (e) of Section 21(1) of the Juvenile Justice Act, 1986.”*

*23. In Jitendra Singh v. State of U.P. [Jitendra Singh v. State of U.P., (2013) 11 SCC 193 : (2013) 4 SCC (Cri) 725] , 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. [Jitendra Singh v. State of U.P., (2013) 11 SCC 193 : (2013) 4 SCC (Cri) 725] 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.*

*24. Thus, while holding appellant Dilshad alias Pappu to be juvenile in terms of the 2000 Act as on the day of occurrence and guilty of the offence with which he was tried, we set aside the sentence of life imprisonment passed against him and remit the matter to the jurisdictional Juvenile Justice Board for determining the appropriate quantum of fine that should be levied on the appellant Dilshad alias Pappu and the compensation that should be awarded to the family of the deceased, keeping in mind the directions issued in Jitendra Singh v. State of U.P. [Jitendra Singh v. State of U.P., (2013) 11 SCC 193 : (2013) 4 SCC (Cri) 725]*

*25. Criminal Appeal No. 2084 of 2009 is thus dismissed while Criminal Appeal No. 460 of 2010 is allowed to the aforesaid extent and the matter as regards appellant Dilshad alias Pappu stands remitted to the jurisdictional Juvenile Justice Board for determination as aforesaid. The bail bonds furnished by appellant Mumtaz alias Muntyaz are cancelled and he shall be taken in custody forthwith to undergo the sentence awarded to him.*

36. Thus where a juvenile is found guilty of the offence, alleged to have been committed, he simply cannot go unpunished, but what punishment should be awarded, must be left to the Juvenile Justice Board constituted under the Act.

37. In the present case, the offence was committed by appellants-convict when the Act of 2000 was not in existence instead Juvenile Justice Act, 1986 was enforced, therefore, only the punishments not greater than those postulated by Juvenile Justice Act, 1986 ought to be awarded to them.

38. Keeping in view the aforesaid observations, the appeal is partly **allowed**. We hold the appellants no.5 and 6 namely Siraj Ahmad and Abdul Wahid respectively to be juvenile in terms of the Act, 2000 as on the day of occurrence and guilty of the offence with which they were tried. However, we set-aside the sentence passed against them and remit the matter to the jurisdictional Juvenile Justice Board for determining the appropriate punishment that should be levied on the said appellants keeping in mind the directions issued in the case of **Jitendra Singh (supra)**.

39. The appellants no.5 and 6 namely Siraj Ahmad and Abdul Wahid respectively are directed to appear before the Juvenile Justice Board on 28.10.2026 along with certified copy of this judgment.

40. An order in this regard would be passed by the concerned Board within a period of six weeks from the date of communication of a certified copy of this order.

41. Trial court record be sent back as per rules.

**(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)**

**October 14, 2026**

Arvind