

REVISED

ITEM NO.20 Court 10 (Video Conferencing) SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 8633/2017
(Arising out of impugned final judgment and order dated 16-11-1985
in ST No. 100/1984 21-07-2017 in CRLA No. 3094/1985 passed by the
High Court Of Judicature At Allahabad)

RAM CHANDRA & ORS.

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

IA No. 7780/2020 - APPLICATION U/S 7-A [9(2) old] OF JUVENILE
JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015
IA No. 125854/2019 - APPLICATION U/S 7-A [9(2) old] OF JUVENILE
JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015
IA No. 7784/2020 - EXEMPTION FROM FILING O.T.
IA No. 136709/2019 - EXEMPTION FROM FILING O.T.
IA No. 125855/2019 - EXEMPTION FROM FILING O.T.
IA No. 136708/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(CrI) No. 8917/2017 (II)

(FOR ADMISSION and I.R. and IA No.102805/2017-EXEMPTION FROM FILING
O.T.)

Date : 19-03-2021 These matters were called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. Sarvam Ritam Khare, AOR
Mr. Akash Shukla, Adv.
Mr. Anupam Mishra, AOR

For Respondent(s) Mr. T.S. Sabarish, Adv.
Mr. C.B. Tiwari, Adv.
Mr. Vishnu Unnikrishnan, Adv.

Mr. S.R. Singh, Sr. Adv.
Mr. Ankur Prakash, AOR
Mr. Alok Kumar Pandey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IA No. 7780 of 2020

The applicant viz. Isha Charan has been convicted along with others under Section 302 of the Indian Penal Code and sentenced with imprisonment for life in relation to an incident which took place on 30-11-1982.

The judgment and order of conviction was passed on 16-11-1985. Aggrieved, the petitioners preferred Criminal Appeal No. 3094 of 1985 before the High Court of Judicature at Allahabad. The criminal appeal has been dismissed by a judgment and order dated 21-07-2017.

It is claimed that the date of birth of the applicant viz. Isha Charan is 08-10-1965 and on the date of the occurrence i.e. 30-11-1982 she was only 17 years, 1 month and 22 days of age. Reliance has been placed on a school leaving certificate.

The plea of juvenility had possibly not been taken before the Trial Court as the trial was concluded and the applicant Isha Charan was convicted before the Juvenile Justice(Care and Protection of Children) Act, 2000 was enacted. However, Section 2(k) of the Juvenile Justice (Care and Protection of Children) Act, 2000, defines a "juvenile" or "child" as a person who has not completed eighteen years of age. A person who was a juvenile at the time of commission of offence is entitled to the protection.

The claim of juvenility may be raised at any stage, even after the final disposal of the case as held by this Court in

Abuzar Hossain @ Ghulam Hossain vs. State of West Bengal reported in (2012) 10 SCC 489. The delay in raising the claim of juvenility is no ground for rejection of such a claim. Similar view has been taken in numerous subsequent cases of this Court.

There will be an order in terms of Prayer 'A' of the application being IA No. 7780 of 2020.

The District and Sessions Judge, Siddharth Nagar, Uttar Pradesh is directed to conduct an inquiry into the juvenility of the applicant Isha Charan and submit a report to this Court within one month from date.

In the meanwhile, Isha Charan, who has been in custody for approximately four years, may be released on bail on such conditions as may be imposed by the District and Sessions Judge, Siddharth Nagar, Uttar Pradesh.

IA No. 125854 of 2019

The applicant viz. Vijay Bahadur has been convicted along with others under Section 302 of the Indian Penal Code and sentenced with imprisonment for life in relation to an incident which took place on 30-11-1982.

The judgment and order of conviction was passed on 16-11-1985. Aggrieved, the petitioners preferred Criminal Appeal No. 3094 of 1985 before the High Court of Judicature at Allahabad. The criminal appeal has been dismissed by a judgment and order dated 21-07-2017.

It is claimed that the date of birth of the applicant

viz. Vijay Bahadur is 15-02-1969 and on the date of the occurrence i.e. 30-11-1982 he was only 13 years, 9 months and 15 days of age. Reliance has been placed on a school leaving certificate.

Section 2(k) of the Juvenile Justice (Care and Protection of Children) Act, 2000, defines a "juvenile" or "child" as a person who has not completed eighteen years of age. A person who was a juvenile at the time of commission of offence is entitled to the protection.

Similar view has been taken in numerous subsequent cases of this Court. There will be an order in terms of Prayer 'A' of the application being IA No. 125854 of 2019.

The District and Sessions Judge, Siddharth Nagar, Uttar Pradesh is directed to conduct an inquiry into the juvenility of the applicant viz. Vijay Bahadur and submit a report to this Court within one month from date.

In the meanwhile, the applicant viz. Vijay Bahadur, who has been in custody for approximately four years, may be released on bail on such conditions as may be imposed by the District and Sessions Judge, Siddharth Nagar, Uttar Pradesh.

Let the Special Leave Petitions be listed for final disposal in the week commencing on 3rd May, 2021.

(MANISH ISSRANI)
COURT MASTER(SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)

IA No. 7780 of 2020

The applicant viz. Isha Charan has been convicted along with others under Section 302 of the Indian Penal Code and sentenced with imprisonment for life in relation to an incident which took place on 30-11-1982.

The judgment and order of conviction was passed on 16-11-1985. Aggrieved, the petitioners preferred Criminal Appeal No. 3094 of 1985 before the High Court of Judicature at Allahabad. The criminal appeal has been dismissed by a judgment and order dated 21-07-2017.

It is claimed that the date of birth of the applicant viz. Isha Charan is 08-10-1965 and on the date of the occurrence i.e. 30-11-1982 she was only 17 years, 1 month and 22 days of age. Reliance has been placed on a school leaving certificate.

The plea of juvenility had possibly not been taken before the Trial Court as the trial was concluded and the applicant Isha Charan was convicted before the Juvenile Justice(Care and Protection of Children) Act, 2000 was enacted. However, Section 2(k) of the Juvenile Justice (Care and Protection of Children) Act, 2000, defines a "juvenile" or "child" as a person who has not completed eighteen years of age. A person who was a juvenile at the time of commission of offence is entitled to the protection.

The claim of juvenility may be raised at any stage, even after the final disposal of the case as held by this Court in *Abuzar Hossain @ Ghulam Hossain vs. State of West Bengal*

reported in (2012) 10 SCC 489. The delay in raising the claim of juvenility is no ground for rejection of such a claim. Similar view has been taken in numerous subsequent cases of this Court.

There will be an order in terms of Prayer 'A' of the application being IA No. 7780 of 2020.

The District and Sessions Judge, Siddharth Nagar, Uttar Pradesh is directed to conduct an inquiry into the juvenility of the applicant Isha Charan and submit a report to this Court within one month from date.

In the meanwhile, Isha Charan, who has been in custody for approximately four years, may be released on bail on such conditions as may be imposed by the District and Sessions Judge, Siddharth Nagar, Uttar Pradesh.

IA No. 125854 of 2019

The applicant viz. Vijay Bahadur has been convicted along with others under Section 302 of the Indian Penal Code and sentenced with imprisonment for life in relation to an incident which took place on 30-11-1982.

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It is claimed that the date of birth of the applicant viz. Vijay Bahadur is 15-02-1969 and on the date of the

occurrence i.e. 30-11-1982 he was only 13 years, 9 months and 15 days of age. Reliance has been placed on a school leaving certificate.

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Similar view has been taken in numerous subsequent cases of this Court. There will be an order in terms of Prayer 'A' of the application being IA No. 125854 of 2019.

The District and Sessions Judge, Siddharth Nagar, Uttar Pradesh is directed to conduct an inquiry into the juvenility of the applicant viz. Vijay Bahadur and submit a report to this Court within one month from date.

In the meanwhile, the applicant viz. Vijay Bahadur, who has been in custody for approximately four years, may be released on bail on such conditions as may be imposed by the District and Sessions Judge, Siddharth Nagar, Uttar Pradesh.

Let the appeals be listed for final disposal in the week commencing on 3rd May, 2021.

(MANISH ISSRANI)
COURT MASTER(SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)