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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 193/2018

VIKAS SANGWAN Appellant

Through: Mr. Brijesh, Adv.

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent

Through: Ms.Nandita Rao, ASC for the State
with Insp. Sachin Kumar, PS Mundka
Mr.Veer Vikrant Singh, Advocate for
NCPCR.
Ms.Neha Jain, Advocate for DCPCR.

+ CRL.REF. 3/2016

COURT ON ITS OWN MOTION Petitioner

Through: Mr.Dayan Krishnan,
Sr.Advocate/Amicus Curiae with
Mr.Sanjeevi Seshadri, Mr.Sukrit Seth,
Mr.Shreedhar Kale, Advocates.

versus

STATE Respondent

Through: Ms.Nandita Rao, ASC for the State
with SI Lalita, P.S.Mundka.
Ms.Vrinda Grover, Advocate with
Mr.Soutik Banerjee, Ms. Mannat
Tipnis and Ms. Devika Tulsiani,
Advocates for the intervener, HAQ
Mr.Veer Vikrant Singh, Advocate for
NCPCR.
Ms.Neha Jain, Advocate for DCPCR.

+ CRL.REV.P. 696/2018
VIKAS SANGWAN Petitioner

Through: Mr. Brijesh, Adv.

versus

THE STATE (GOVT OF NCT OF DELHI) Respondent

Through: Ms.Nandita Rao, ASC for the State
Mr.Veer Vikrant Singh, Advocate for
NCPCR.
Ms.Neha Jain, Advocate for DCPCR.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
19.09.2022

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1. Learned counsel appearing on behalf of NCPCR states that they are in the process of consultation and he needs three months time to submit the detail report in terms of the decision of the Hon'ble Supreme Court in the decision reported as (2022) SCC OnLine SC 870 *Barun Chandra Thakur Vs. Master Bholu & Anr.*
2. Learned counsel appearing on behalf of DCPCR seeks eight weeks time to furnish the report.
3. Besides the guidelines as directed by the Hon'ble Supreme Court in relation to the report of preliminary assessment, we find that even the questionnaire at Sl. Nos. 42 and 43 in Form No.6 which relates to preparation of Social Investigation Report (in short SIR) for children in conflict with law under Section 8 of the Juvenile Justice (Care and

Protection) of Children Act (in short, the J.J. Act) is incorrect as a presumption is raised at the pre trial stage itself that the child has committed the offence for the reason it note in Sl. No. 42. In compliance of the requirement at Sl. No. 42 the Probation Officer is required to note the alleged role of the child in the offence and at Sl. No.43 the reasons for the said alleged offence. Most often, this SIR filled by the Probation Officer is also considered and pertinent at the time of preparing the preliminary assessment report under Section 15 of the J.J. Act.

4. Learned counsel appearing on behalf of the NGO/HAQ, Intervener in the CRL.Ref. 3/2016 has placed before us, a copy of the preliminary assessment report prepared by a psychologist in the format supplied by the Department. Under Clause 3 of the said report, it can be clearly noted that a confession is sought to be extracted from the child as to the manner in which the offence was committed and the reasons thereof. This manner of seeking a confession from the child is unconstitutional and beyond the scope of a report of preliminary assessment to be prepared under Section 15 of the J.J. Act.

5. Learned Amicus Curiae states that though the vires of Section 15 of the J.J. Act were not in challenge before the Hon'ble Supreme Court in the decision in *Barun Chandra Thakur (Supra)*, however, sufficient guidance has been laid down by the Hon'ble Supreme Court with regard to manner of conducting the inquiry giving three important factors; firstly, mental and physical capacity of the CCL to commit an offence; secondly, the ability of the CCL to understand the consequences of the offence and thirdly, circumstances in which the accused allegedly committed the offence.

6. Though the record from the Court of learned ASJ has been received, however the record from the learned Juvenile Justice Board has not been received. Registry will call for the record of the Juvenile Justice Board in sealed cover to this Court before the next date of hearing.

7. List for further hearing on 07th December, 2022.

8. Order be uploaded on the website of this Court.

MUKTA GUPTA, J

ANISH DAYAL, J

SEPTEMBER 19, 2022/mk