

CRIMINAL APPEAL NO.73 OF 2021  
[SPECIAL LEAVE PETITION (CRIMINAL) NO.728/2021 @ Diary No(s).  
34648/2019]

YOGENDRA YADAV

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the appellant as well as learned counsel for the State.

This appeal has been filed by the appellant questioning the judgment dated 14.03.2019 passed by the Division Bench of the High Court in Criminal Appeal No. 997 of 1985, by which the criminal appeal was dismissed and the conviction of the appellant was affirmed under Sections 302 and 323/34 IPC.

Learned counsel for the appellant submitted that the appellant was juvenile on the date of incident. This Court passed the following order on 24.08.2020:

“Delay condoned.

The petitioner claims in this petition that he was a juvenile on the date of the incident. In the petition, he has filed two documents i.e. School Leaving Certificate dated 17.10.1978 showing the date of birth as 01.07.1966 and Transfer Certificate dated 10.03.1995 (at page 63).

The plea of juvenility was neither taken before the Trial Court nor before the High Court. We are of the view that it is appropriate if a report be called from the District Judge, Ajamgarh or an Additional District Judge nominated by the District Judge regarding the claim of juvenility of the petitioner.

All the relevant documents claiming juvenility be produced before the District Judge/Additional District Judge within a period of four weeks from today and after conducting an appropriate enquiry a report be submitted by the District Judge within a further period of three months.

List the matter after the report is received from the District Judge/Additional District Judge."

Pursuant to order dated 24.08.2020, the Additional District and Sessions Judge, Court No.4, Azamgarh, U.P. submitted a report dated 02.11.2020 verifying the date of birth of the appellant as 01.07.1966 and further stated that the appellant was 17 years 1 month on the date of incident. Para 4 of the report is the conclusion regarding claim of juvenility, which reads as follows:

"4. Conclusion regarding claim of juvenility:-

Thus, after thorough inquiry, I came to the conclusion that the date of incident in question is 01.08.1983 and the date of birth of accused Yogendra Yadav is 01.07.1966. In this way, the claim of juvenility of accused / petitioner Yogendra Yadav is found true, as the age of accused Yogendra Yadav on the date of incident was Seventeen years and One month (17 Years 01 Month)."

We granted time on 04.01.2021 to the State to look into the inquiry report and submit its objection, if any.

An application has been submitted on behalf of the State of U.P., wherein it is stated that there is no objection to the report submitted by the Additional District and Sessions Judge.

The date of birth of the appellant is 01.07.1966 and on the date of incident, the appellant was 17 years and 1 month. The appellant being juvenile, we are of the view that the conviction order passed by the Trial Court and the impugned judgment passed by the High Court affirming such conviction deserve to be set aside. We order accordingly.

The criminal appeal is allowed.

Learned counsel for the appellant submits that the appellant has already been in custody for more than two years.

Since the appellant has already been in custody for more than two years, we see no reason to send the matter back to the Juvenile Justice Board. We are not directing the Juvenile Justice Board to initiate any trial under the Juvenile Justice Act.

Pending applications, if any, stand disposed of.

.....J.  
[ASHOK BHUSHAN]

.....J.  
[R. SUBHASH REDDY]

.....J.  
[M.R. SHAH]

NEW DELHI;  
JANUARY 22, 2021.

ITEM NO.27

Court 7 (Video Conferencing)

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 34648/2019

(Arising out of impugned final judgment and order dated 14-03-2019 in CRLA No. 997/1985 passed by the High Court Of Judicature At Allahabad)

YOGENDRA YADAV

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

Date : 22-01-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN  
HON'BLE MR. JUSTICE R. SUBHASH REDDY  
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s)

Mr. Pradeep Kumar Yadav, Adv.  
Mr. Vishal Thakre, Adv.  
Mr. Abhay Singh Yadav, Adv.  
Mr. Rudra Pratap Yadav, Adv.  
Ms. S.B. Khan, Adv.  
Mr. Sanjeev Malhotra, AOR

For Respondent(s)

Mr. Diwakar Chaturvedi, Adv.  
Ms. Srishti Singh, AOR

UPON hearing the counsel the Court made the following

## O R D E R

Leave granted.

The criminal appeal is allowed in terms of the signed order.

Learned counsel for the appellant submits that the appellant has already been in custody for more than two years.

Since the appellant has already been in custody for more than two years, we see no reason to send the matter back to the Juvenile Justice Board. We are not directing the Juvenile Justice Board to initiate any trial under the Juvenile Justice Act.

Pending applications, if any, stand disposed of.

(MEENAKSHI KOHLI)  
ASTT. REGISTRAR-cum-PS

(RENU KAPOOR)  
BRANCH OFFICER

[Signed order is placed on the file]