

Before the Juvenile Justice Board, West Singhbhum at Chaibasa

(Tausif Meraj)
Principal Magistrate
Juvenile Justice Board, Chaibasa.

Member: Sanjay Kumar Birua,
J.J.B., Member, Chaibasa,

Member: J.J.B., Member, Chaibasa.

Chaibasa, dated 22th day of July, 2023.
Enquiry No.35/2022.
Chakradharpur P.S. Case No. 108/2022.
CNR No.- JHCB030024612022

STATE (through Bappa Karmakar, aged about 32 years,
S/o- Chitto Karmakar, R/o- Refugee Colony, Chakradharpur
P.S.- Chakradharpur, Dist.- West Singhbhum)

.....Informant/prosecution.

-Versus -

Md. Sajid, aged about 15 years,
son of Md. Ishtiyak, R/o- Mauza- Banglatand Ward No. 18,
P.S.- Chakradharpur, District- West Singhbhum.

.....Juvenile.

For the Prosecution : Sri Ram Kinkar Pandey, Ld. A.P.P.
For the defence : Sri S.B. Jyotishi, Ld. Advocate.

Substance U/s. 456/379/511/414 of the IPC.

FINAL ORDER.

1. The above named Juveniles are facing this inquiry for the offence alleged Under Sections 456/379/511/414 of I.P.C.
2. In brief, the prosecution story as per the written application of informant namely Bappa Karmakar, who has alleged that on 17.09.2022 at about 11:00 O'clock, he put his ToTo for charge under Steel Shed adjacent to his house and on the very next day at about 02:30 O'clock in the morning, he

heard some sound and went outside of the house, he saw that one boy was opening the battery of ToTo. After seeing informant, he tried to flee away but was chased and apprehended. On inquiry he disclosed his name Sajid. Meanwhile, he tried to flee away but again he was apprehended.

3. On the basis of written report of informant "Bappa Karmakar" in Chakradharpur P.S. Case No. 108/2022 dated 19.09.2022 was instituted u/s 456/379/511 of the IPC against the Juvenile **Md. SAjid**.

*Having due investigation, I.O. submitted charge-sheet No. 119/2022 dated 15.11.2022 against the Juvenile **Md. SAjid**, for the offence u/s 456/379/511/414 of I.P.C. and accordingly vide order dated 23.11.2022, prima-facie case is made out for the offence U/S 456/379/511/414 of IPC by this Board.*

4. Vide order dated **02.12.2022**, this Board assessed the age of Juvenile and observed that he was **14 years 04 Months and 03 Days** on the date of occurrence i.e. on **18.09.2022**.

5. Substance of accusation was explained to Juvenile for the offence alleged under sections 456/379/511/414 of I.P.C. on **13.04.2023** to which he pleaded not guilty and claimed to be inquired by the Board.

6. After closure of the prosecution evidence statement of the Juvenile was recorded **Under Section 313 of Cr.P.C.** on **19.07.2023** in which he denied the allegation levelled against him and claimed to be innocent.

7. Now, the only point for consideration is as to whether the Juvenile is in conflict with law or not?

FINDINGS

8. The prosecution has examined only one **(01)** witness in this case in

order to substantiate its case, who is informant himself:-

PW 1- Bappa Karmkar, (Informant)

9. The prosecution has adduced the following documentary evidence in support of his case.

Ext. A- Admission register of Juvenile.

Ext. B- School Transfer certificate.

Ext. P-1/PW 1- Signature of PW 1 on written report.

10. **PW 1- Bappa Karmkar**, has deposed that regarding this incident, he has given a written report in the handwriting of Sonu Das upon which he put his signature was marked as Ext. P-1/PW 1. His battery was not stolen. At the time of incident, there was darkness. People of Refugee Colony, Chakradharpur were caught the Juvenile in the night. People of neighbourhood saying him that the Juvenile was trying to steal the battery of his ToTo that night. On that time, he was sleeping at his house and put his ToTo in charge after parked in the hut. In his Toto 04 Okaay company batter were installed whose worth of Rs. 30,000/-. He came to know about the incident on that night when he wake up for toilet. Police came to him and asked about the battery but he told that his battery was not stolen. This witness did not identify the Juvenile.

During cross-examination, he deposed that he is not eye witness to the occurrence so he has no personal knowledge.

11. I have heard the submissions made by the Ld. A.P.P. and Ld. defence counsel and carefully perused the evidences and documents on record.

12. Therefore, considering the facts and circumstances and perused the record and the evidences as available on record, it appears that there is an

allegation against the Juvenile facing inquiry that he has committed theft of battery which is installed Toto. The prosecution in order to substantiate its case, has only examined sole witness, who is informant himself i.e. PW 1. It is cardinal principal of of the criminal law is that the Juvenile is proven guilty beyond the shadow of all reasonable doubt. The burden of proving the guilt of Juvenile exclusively lies on the prosecution and the prosecution is required to stand on its own legs. The benefit of doubt, if any, must go in favour of Juvenile.

13. So far as prosecution case against the Juvenile Md. Sajid levelled u/s 456/379/511/414 of I.P.C. is concerned, none of witnesses except the informant i.e. PW 1 come forward adduce their evidence before the Board. It is also manifest that except written report Ext. P-1/PW 1, no documentary evidence has been adduced on behalf of the prosecution. Since, PW 1 is who informant of this case has categorically deposed during his evidence that neither his battery was stolen nor he has personal knowledge about the incident. He came to know by the local resident of his society that the Juvenile facing inquiry was trying to commit theft of battery which is installed in his Toto. Even, in his testimony neither he disclosed the date of incident nor he disclosed the identity of Juvenile facing inquiry. By these version of PW 1, it could not be established that who was the main culprit in the commission of said offence.

14. Moreover, I.O. of this case has not been examined by the prosecution who could prove the factum of recovery of battery or disclosure statement of Juvenile facing inquiry. Not a single witnesses has been examined by the prosecution to buttress the credibility of the prosecution version. Thus,

prosecution case suffers from material and fatal infirmities.

15. Therefore, the identity of this Juvenile and involvement in commission of the offence as alleged in this case and presence at the place of occurrence could not be established by the prosecution. It is also evident that no TIP was done. Therefore, in the absence of TIP, it cannot be convincingly held that the aforesaid offence was committed by the Juvenile facing inquiry. Hence, in the absence of basic ingredients of offence punishable u/s 456/379/511/414 of I.P.C. prosecution has failed to establish its case beyond the shadow of all reasonable doubts.

Accordingly, we find and hold that the Juvenile namely **Md. Sajid**, not guilty of the offence u/s 456/379/511/414 of I.P.C. and accordingly, he is **acquitted** thereunder. The said Juvenile is on Bail and consequently, his bailors are discharged from the liabilities of their respective bail bonds.

(DICTATED AND CORRECTED BY US)

(Dictated)

Sd/-

(**Tausif Meraj**)

Principal Magistrate
Juvenile Justice Board, Chaibasa.
J.O.Code-JH01119

Member: Sanjay Kumar Birua,
J.J.B., Member, Chaibasa,

Member: J.J.B., Member, Chaibasa.

Chaibasa, Dated : The 22nd day of July, 2023.