

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 974-975 OF 1998

JADDISH NARAINAPPELLANT(S)

VERSUS

KRISHNA & ANR. etc.etc.RESPONDENT(S)

O R D E R

The instant appeals were allowed on 04.10.2005 by this Court and Review Petition (Crl.) Nos. 107-108 of 2011, filed by the accused was also dismissed on 17.02.2011.

Senior Superintendent, Central Jail, Fatehgarh has forwarded an application along with photocopy of school leaving certificate of convicted accused/respondent no. 3 viz. Kailash Nath, wherein the applicant has claimed the benefit of provisions of Section 7A(1) of the Juvenile Justice (care and Protection of Children) Act, 2000, for short 'the Act' stating that his age was below 18 years on the date of the occurrence, but he has failed to file application seeking such relief before the courts due to lack of information while confined in jail.

Accordingly, office report for direction (in a allowed matters) was listed before the Court on 03.01.2013 and notice was issued to the State. Thereafter, the matters along with office report for direction were listed on various dates.

Ultimately, vide order dated 22.09.2014, District Judge, Shivrajpur, Kanpur Dehat was directed to conduct an inquiry into the juvenility of respondent no. 3 and file a report before this Court within three months. Accordingly, a report dated 20.12.2014 has been received from the Sessions Judge, Kanpur Dehat (Ramabai Nagar), wherein the learned Sessions Judge, on the basis of the evidence on record, recorded a categorical finding of fact regarding the age of the convict/accused Kailash Nath as 16 years 1 month and 6 days as on 22.07.1979, the date of incident. Learned counsel for the respondent no. 3 submits at Bar that he has already undergone 10 years 11 months and 19 days as on 17.03.2015 with remission.

We have heard learned counsel for the parties.

Having regard to the facts and circumstances of the case, the material available on record particularly the report submitted by the learned

Sessions Judge, Kanpur Dehat (Ramabai Nagar), the ratio laid down by this Court in the case of Bharat Bhushan v. State of Himachal Pradesh, (2013) 11 SCC 274 and the rival legal submissions, we are of the considered opinion that respondent no. 3 is entitled for the benefit of the Act and the principle of law laid down in the case of Bharat Bhushan (supra) apply to the fact situation. Accordingly, we direct the Senior Superintendent, Central Jail, Fatehgarh to release respondent no. 3, who is undergoing sentence in connection with ST Case No. 216/1979, forthwith from the custody, if not required in any other case.

The Registry is directed to send the copy of this order immediately by fax/email so as to ensure the release of respondent no. 3 from the prison.

The application of convicted accused/respondent no. 3 is allowed and the office report for direction (in a allowed/disposed matter) is ordered accordingly.

.....J.
(V. GOPALA GOWDA)

.....J.
(C. NAGAPPAN)

NEW DELHI,
MARCH 18, 2015

ITEM NO.1

COURT NO.9

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

Criminal Appeal No(s). 974-975/1998

JAGDISH NARAIN

Appellant(s)

VERSUS

KRISHNA & ANR. etc. etc.

Respondent(s)

(office report for direction)

Date : 18/03/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE C. NAGAPPAN

For Appellant(s)

Mr. Vikrant Singh Bais (AC)
Yogesh Tiwari, Adv.

For Respondent(s)

Ms. Pragati Neekhara, Adv.
Mr. Utkarsh Sharma, Adv.

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

The application of convicted accused/respondent no. 3 is allowed and the office report for direction (in a allowed/disposed matter) is ordered in terms of the signed order.

(VINOD KR. JHA)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed order is placed on the file)