

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 (Crl) No(s).2366-2367/2012

(From the judgement and order dated 31/03/2011 in CRLA No.165/2005, dated 19/07/2011 in CRLA No.165/2005, CRLMA No.8093/2011 of The HIGH COURT OF DELHI AT N. DELHI)

STATE (GOVT.OF NCT OF DELHI)

Petitioner(s)

VERSUS

RAMESH @ BORI

Respondent(s)

(With appln(s) for c/delay in filing SLP, issuance of non-bailable war. of arrest and office report)

Date: 09/01/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU

HON'BLE MR. JUSTICE RANJAN GOGOI

For Petitioner(s) Mr. P.P. Malhotra, ASG
Mr. Yasir Rauf, Adv.
Mr. D.S. Mahra, Adv.
Mr. B.V. Balaram Das, Adv.

For Respondent(s) Mr. Sanjay Kumar Tyagi, Adv.
Mr. Sanjai Kumar Mishra, Adv.
Mr. Prabhat Kumar Rai, Adv.
Mr. Prakash Gautam, Adv.
Mr. Mrinmay Bhattamewara, Adv.

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

1. We have heard Sh. P.P. Malhotra, learned ASG, appearing for the petitioner and Sh. Sanjay Kumar Tyagi, learned counsel for the respondent/accused.

2. By the impugned judgment and order, the High Court has come to the conclusion that the respondent-herein is a juvenile as envisaged under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for brevity, "the Act") and accordingly has released the respondent since he was in jail for more than three years. The High Court has also imposed an exemplary cost of Rs.5 lakhs payable by the petitioner-herein to the respondent.

3. After disposal of the Criminal Appeal, the petitioner has conducted a detailed inquiry with reference to the date of birth certificate issued by the school authorities and have come to the conclusion that the actual date of birth of the respondent-herein is 05.06.1980 and, therefore, on the date of the incident, i.e. 11.11.2001, the respondent was not a juvenile as he had attained the age of 21 years.

4. Keeping in view the above, we are of the tentative opinion that the High Court may not be justified in passing the impugned judgment and order. Before arriving at any final conclusion, we think it proper that an enquiry be ordered to be conducted by the learned District Judge, Tis Hazari Courts, Delhi to ascertain the actual date of birth of the respondent-herein, as provided under Rule 12 of the Juvenile Justice (Protection and Care of Children) Rules, 2007 (for brevity, "the Rules").

Accordingly, we request the learned District Judge, Tis Hazari Courts or his nominee to conduct a detailed enquiry, as noticed by us above and submit his report after affording an opportunity of hearing to the respondent as well as the Delhi Police as early as possible, at any rate within an outer limit of two months from today.

5. The Registry is directed to send a copy of this order to the learned District Judge, Tis Hazari Courts, Delhi forthwith.

List the matter after two months.

(NAVEEN KUMAR)
COURT MASTER

(VINOD KULVI)
COURT MASTER