

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CRIMINAL APPEAL NO(s). 178 OF 2004

LEVI ANYANWU & ANR. Appellant (s)

VERSUS

SUNIL TAMONKAR & ANR. Respondent(s)

(With appln(s) for issuance of non-bailable war. of arrest and office report)

WITH SLP(Crl) NO. 1052 of 2004
(With office report)

Date: 03/05/2011 These matters were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s) M/S. Lawyer'S Knit & Co,Adv.

For Respondent(s) Mr.Arun P.Penekar,Adv.
Mr.V.N.Raghupathy,Adv.
Mr. Ravindra Keshavrao Adsure,Adv.

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

Delay condoned.

Leave granted.

Both the appeals are dismissed in terms of the signed order.

(KUSUM SYAL) (VINOD KULVI)
SR. P.A. COURT MASTER

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 178 OF 2004

WITH
CRIMINAL APPEAL NO.1091 OF 2011
(arising out of SLP(Crl) No.1052 of 2004)

LEVI ANYANWU & ANR. Appellant (s)

VERSUS

SUNIL TAMONKAR & ANR. Respondent(s)

Delay condoned.

Leave granted.

We have heard learned counsel for the parties in both the appeals.

The accused - respondent was convicted by the trial court for offences punishable under Sections 354 and 376(2)(f) of the Indian Penal Code and sentenced to one year's and 10 years rigorous imprisonment respectively. An appeal was thereafter filed by the accused in the High Court and the High Court has quashed and set aside the findings of the trial court and acquitted the accused.

The present appeals have been filed on the instructions of the State of Goa and the complainant challenging the order of the High Court. At the very outset, it has been pointed out to us that the age of the accused was 16 to 17 years as on the date of incident. It has accordingly been submitted that

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in the light of the judgment of this Court in Hari Ram versus State of Rajasthan and Another (2009) 13 SCC 211, wherein it has been held that the date on which the incident happened would determine the age of the accused for assessing his claim to juvenility in the light of the amendments made in Juvenile Justice Act in the year 2001, and which provided that a male would be termed as a juvenile till he attained the age of 18 years, the accused was to be treated as a juvenile.

We, are therefore, of the opinion that the proceedings before the criminal court were completely non-est. In view of the fact that the matter is almost 13 years old, we decline to remand the matter to the Juvenile Justice Board the more so, as the appeals are against acquittal. We accordingly dismiss these appeals.

.....J
(HARJIT SINGH BEDI)

.....J
(CHANDRAMAULI KR. PRASAD)

NEW DELHI
MAY 3, 2011