

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). 8701/2012
(Arising out of impugned final judgment and order dated 24/04/2012
in CRLR No. 2197/2010 passed by the High Court Of Judicature at
Allahabad)

KAMAL YADAV

Petitioner(s)

VERSUS

STATE OF U.P.& ANR Respondent(s)
(With appln. (s) for exemption from filing O.T. and permission to
file additional documents and stay and office report)

Date : 20/02/2015 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s)

Mr.Y.K.S. Chauhan,Adv.
Ms.Manju Singh,Adv.
Mr. Mithilesh Kumar Singh,Adv.

For Respondent(s)
R.No.1

Mr. Gaurav Bhatia,AAG
Mr. Adarsh Upadhyay,Adv.
Mr. Gaurav Srivastava,Adv.

Mr. Varinder Kumar Sharma,Adv.(NP)

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

Leave granted.
The appeal is disposed of in terms of the
signed order.

(MADHU BALA)
COURT MASTER
(Signed order is placed on the file)

(ASHA SONI)
COURT MASTER

Signature Not Verified

Digitally signed by
Madhu Bala
Date: 2015.02.23
15:28:44 IST
Reason:

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 350 OF 2015
(@ SPECIAL LEAVE PETITION (CRL.) NO. 8701 OF 2012)

KAMAL YADAV

...APPELLANT(S)

VERSUS

STATE OF U.P.& ANR

....RESPONDENT(S)

O R D E R

1. Heard learned counsels for the parties who are present. None appeared on behalf of the accused-Respondent No.2.

2. Leave granted.

3. The challenge herein is against an order of the High Court of Allahabad by which the order dated 24.02.2010 passed by the Learned Trial Court holding Respondent No.2 to be juvenile has been affirmed. The learned Trial Court after recording the said finding has sent the case of the accused-Respondent No.2 to the Juvenile Justice Board. Aggrieved, the complainant has filed this appeal.

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-2-

4. A perusal of the materials on record would indicate that there is a Municipal Birth Certificate which shows the date of birth of Respondent No 2. as 25.07.1985. There is School certificate which shows the said date of birth as 20.03.1989. The date of occurrence is 30th January, 2007. In other words, if the School Certificate is to be accepted, the Respondent No.2 was a juvenile on the date of the commission of the offence whereas if the Municipal Certificate is to be accepted, the position would be otherwise.

5. We had directed the Chief Metropolitan Magistrate, Kanpur Nagar, Kanpur (U.P.) to make an inquiry into the authenticity of the School Certificate. Pursuant to our order, the Chief Metropolitan Magistrate has submitted a report. We have perused the said report. We have also taken into account the facts surrounding the

issuance of the birth certificate. On such consideration, we are inclined to take the view

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-3-

that the authenticity of either two versions must be established beyond reasonable doubt which on the materials on record is not established. We, therefore, set aside the order of the High Court as well as the learned Trial Court and remand the matter to the Trial Court for full consideration after taking the evidence of the contesting parties. Once the necessary determination is made by the learned Trial Court further orders will be passed in accordance with law.

6. The appeal is disposed of in the above terms.

.....J.
[RANJAN GOGOI]

NEW DELHI
20TH FEBRUARY, 2015

.....J.
[ARUN MISHRA]