

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 493 OF 2012  
(Arising out of SLP(Crl) No. 6857 of 2011)

MANOJ ...Appellant

VERSUS

STATE OF MADHYA PRADESH ...Respondent

O R D E R

1. Leave granted.

2. This appeal is directed against the judgment and order passed by the High Court of Madhya Pradesh, Bench at Indore, in Criminal Appeal No. 270 of 2001 dated 20.05.2011. By the impugned judgment and order, the High Court has sentenced the appellant under Section 302 read with Section 149 of the IPC.

3. In the appeal filed, it is the specific assertion of the appellant that on the date of incident, i.e. on 16.10.1997, appellant was a juvenile. This issue is raised for the first time before this Court. It is further asserted that since the appellant was a juvenile and he should have been tried under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 ('Act' for short) and after such trial, if for any reason, he is convicted and sentenced, he should have been remanded to Special Home for a period of three years only.

4. This issue was not raised by the appellant either before the Sessions Court nor before the High Court. However, as observed by this Court, in the case of Hari Ram Vs. State of

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Rajasthan & Anr. reported in 2009(6) SCALE 695, this issue can be raised at any time.

5. In order to verify whether the appellant was a juvenile on the date of the incident, we had directed the learned District Judge to hold an inquiry as provided under the Act and submit a report before this Court at the earliest. We have received the report wherein it is stated, that, the appellant was a juvenile on the date of the incident. This aspect of the matter is not disputed by Sh. C.D. Singh, learned counsel appearing for the State of Madhya Pradesh.

6. In view of the above, while allowing this appeal in part, we modify the sentence awarded by the Trial Court for a period of three years and further, we direct the respondents to shift the appellant from Central Jail, Indore to the Special Home for a period of three years as provided under the Act, after giving the benefit of the jail custody already undergone by him. This order shall be given effect forthwith. The Registry is directed to communicate our order to the Jail Superintendent, Central Jail, Indore forthwith.

7. Ordered accordingly.

.....J.

