

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No.95/2016

(@Petition(s) for Special Leave to Appeal (Crl.) No(s). 638/2011)

SURINDER SINGH & ORS.

Appellant(s)

VERSUS

STATE OF HARYANA

Respondent(s)

O R D E R

Leave granted.

We have heard Mr. Ajay Veer Singh Jain, learned counsel appearing for the appellants and Mr. Arun Kumar, learned Additional Advocate General appearing for the State of Haryana.

This is an appeal against the Judgment of the High Court of Punjab and Haryana by which the conviction and sentence of the three appellants was upheld. Appellant No.1 was convicted and sentenced for the offences punishable under Section 304 Part II of the Indian Penal Code for seven years and directed to pay a fine of Rs.2000/-; under Section 323 of the said Code, he was sentenced for six months. The other two appellants viz. Tara Chand and Raghbir Singh were sentenced to undergo five years rigorous imprisonment for offences punishable under Section 325 read with Section 34 of the Indian Penal Code.

It is not in dispute that the Appellant Nos. 2 and 3 viz. Tara Chand and Raghbir Singh have served their sentence and the appeal qua them have become infructuous.

As far as Surinder Singh, Appellant No.1, is concerned, it is common ground that he was 16 years and 5 months old on the date of commission of the offence and accordingly not a juvenile under the old Act viz. Juvenile Justice Act, 1986. It is not disputed before us that the Appellant No.1 has not undergone more than thirteen months' imprisonment. It is also undisputed that the Sessions Judge convicted the appellant by Judgment dated 20-12-1999. It is

also clear that Appellant No.1 is a juvenile within the meaning of the new Act viz. the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) when the matter was heard and decided by the High Court on 16-7-2010. The High Court did not apply the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) to Appellant No.1 though he was entitled to be treated as a juvenile when the matter was heard before the High Court. The High Court has failed to apply the provision of the Act of 2000.

It is settled law vide Hari Ram vs. State of Rajasthan and Another (2009) 13 SCC 211 and Daya Nand vs. State of Haryana (2011) 2 SCC 224 that a person who is a juvenile according to the Act of 2000 when the matter is pending before a Court, is entitled to the beneficial provisions contained in the Act by virtue of Section 7A read with Sections 20 and 64 of the Juvenile Justice (Care and Protection of Children) Act, 2000.

Accordingly, we set aside the sentence imposed on the Appellant No.1. He is directed to be produced before the Juvenile Justice Board, Karnal for passing appropriate orders in accordance with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000.

Appellant No.1 is directed to appear before the said Board within a period of six weeks from today and if he fails to do so, the State will take appropriate steps to ensure his presence before the Board.

The Appeal is allowed in the afore-stated terms.

.....J
(S.A. BOBDE)

.....J
(AMITAVA ROY)

NEW DELHI,
2ND FEBRUARY, 2016

ITEM NO.11

COURT NO.11

SECTION IIB

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.95/2016

(@Petition(s) for Special Leave to Appeal (Crl.) No(s). 638/2011)

(Arising out of impugned final judgment and order dated 16/07/2010 in CRLA No. 2/2000 passed by the High Court of Punjab & Haryana at Chandigarh)

SURINDER SINGH & ORS.

Petitioner(s)

VERSUS

STATE OF HARYANA

Respondent(s)

(With office report)

(For final disposal)

Date: 02/02/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s)

Mr. Ajay Veer Singh Jain, Adv.
Mr. U.K. Bokadia, Adv.
Mr. Atul Agrawal, Adv.
Mr. R.K. Verma, Adv.
Ms. Divya Garg, Adv.
Ms. Mamta Jain, Adv.
Mr. Mohd. Irshad Hanif, Adv.

For Respondent(s)

Mr. Arun Kumar, AAG, Haryana
Mr. Sanjay Kumar Visen, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(VISHAL ANAND)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER

(Signed Order is placed on the file)

