

ITEM NO.103

COURT NO.4

SECTION IIA

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(s). 43/2012

BECHARAM ACHARYA & ORS.

Appellant(s)

VERSUS

STATE OF JHARKHAND

Respondent(s)

(with appln. (s) for exemption from filing proof of surrender)

Date : 11/03/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr. Arup Banerjee,Adv.

For Respondent(s) Mr. Ratan Kumar Choudhuri,Adv.

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

During the course of hearing, we were informed that the instant appeal has been preferred at the hands of four accused who have been convicted inter alia of the offence of Section 304 Part-B, Indian Penal Code. It is the contention of the learned counsel for the appellants, that two of the convicted appellants, namely, Becha Ram Acharya and Chinta Acharya were approximately fifteen and half years of age on the date of occurrence, namely, on 27.3.1998. It is the vehement contention of the learned counsel for the appellants, that the issue of juvenility was raised by the above-mentioned appellants before the trial Court, but the plea of minority was rejected outright. It is submitted, that the High Court also did not answer the

plea of minority at the behest of the appellants mentioned hereinabove, namely, Becha Ram Acharya and Chinta Acharya.

Learned counsel for the appellants has invited our attention to the judgment rendered by this Court in Anil Agarwala and another vs. State of West Bengal (2012) 9 SCC 768, wherein it has been held by this Court, that the question of juvenility can be raised at any point of time, and even after the final disposal of a case. It is submitted on the basis of the law declared by this Court in Anil Agarwala's case (supra), that it is an obligation cast on this Court to answer the issue of juvenility in terms of the mandate contained in Section 7 of the Juvenile Justice (Care and Protection of Children) Act, 2000.

When the aforesaid proposition canvassed at the hands of the learned counsel for the appellants, namely, Becha Ram Acharya and Chinta Acharya was put to the learned counsel representing the State of Jharkhand, learned counsel contended, that he has no objection to the determination of the juvenility of the above-named two appellants, in view of the decision rendered by this Court in Anil Agarwala's case (supra).

In view of the above, we consider it just and appropriate to direct the appellants Becha Ram Acharya and Chinta Acharya to appear before the trial Court, namely, before the Sessions Judge, Bokaro on 6.4.2015. The Sessions Judge, Bokaro shall assign the question of determination of juvenility to a Court of competent jurisdiction. The appellants are

granted liberty to lead evidence to establish the question of their juvenility in terms of Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007. Thereupon, the report of the Court assigned the case will be forwarded for consideration to this Court.

We hope and expect that the aforesaid exercise shall be completed within three months from today.

List after four months.

(Parveen Kr. Chawla)
Court Master

(Renu Diwan)
Court Master