

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 451 OF 2013

[Arising out of SLP (Criminal) No. 7708 of 2012]

Kamlendra Singh @ Pappu Singh

.. Appellant

Versus

State of M.P.

.. Respondent

J U D G M E N T**K. S. Radhakrishnan, J.**

1. Leave granted.

2. The appellant, along with two others, were charge sheeted for offences punishable under Sections 341, 294, 307 read with Section 34 IPC for conspiring to murder of one Atul Mishra on 27.8.1993 in Rewa at Allahabad Road, near Kalewa Hotel. For the said purpose, the appellant accused gave a country made pistol to the accused Raj Kumar Singh and exhorted him to shoot Atul Mishra. Raj Kumar Singh fired at Atul Mishra with the said country made pistol and he succumbed to his injuries.

3. The trial Court convicted him under Sections 341, 307 read with Section 34 IPC, but acquitted him of the charges under Section 294 IPC. For the offence under Section 341 IPC, he was sentenced to undergo rigorous imprisonment for one month and for the offence under Section 307 IPC, he was sentenced to rigorous imprisonment for one year along with a fine of Rs.500/-. Both the sentences were directed to run concurrently.

4. On appeal, the High Court set aside the conviction and sentence for the offence punishable under Section 341 IPC, but the conviction as well as the sentence awarded for offence punishable under Section 307 IPC was maintained, against which this appeal has been preferred.

5. Shri S.K. Dubey, learned senior counsel appearing for the appellant, submitted that the appellant was a juvenile on the date of the incident i.e. 27.8.1993, though the claim of juvenility was not raised either before the trial Court or the High Court. In order to establish the date of birth of the accused, the High School Board Mark-sheet /Certificate and a copy of the admission register were produced before this Court. Those documents would indicate that on the date of the incident, the

date of birth of the accused is 25.2.1977. If that be so, the age of the accused on the date of the incident was 16 years 6 months and 2 days.

6. When the matter came up for hearing on 9.11.2012, this Court directed the State of Madhya Pradesh to find out whether the appellant was a juvenile on the date of the incident and the veracity of the documents mentioned above. The State Government got those documents verified through the Additional Superintendent of Police and reported that the documents are genuine.

7. Going by those documents, evidently, the date of birth of the appellant is 25.2.1977. If that be so, the appellant was a juvenile on the date of the incident. We have extensively examined the provisions of the Juvenile of Justice (Care and Protection of Children) Act, 2000 in **Ashwani Kumar Saxena v. State of M.P.** (2012) 9 SCC 750 and we are of the view that the principle laid down in the above judgment squarely applies to the facts of the present case. Under such circumstances, we are inclined to set aside the sentence awarded by the trial Court, confirmed by the High Court and the case records are

directed to be placed before the concerned Juvenile Justice Board for awarding the appropriate sentence. Ordered accordingly.

8. The appeal is allowed as above.

.....J.
(K. S. RADHAKRISHNAN)

.....J.
(DIPAK MISRA)

New Delhi,
March 15, 2013



JUDGMENT