



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 253 of 2002

Karuna Shanker Singh @ Nintoo

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: S.C. Srivastava,
Counsel for Respondent(s)	: Govt. Advocate,

Court No. - 11

**HON'BLE ABDUL MOIN, J.
HON'BLE PRAMOD KUMAR SRIVASTAVA, J.**

1. Heard Sri S.C. Srivastava, learned counsel appearing for the appellant as well as learned A.G.A. appearing on behalf of the State-respondents.

2. This appeal has been preferred against the judgment and order dated 04.02.2002 passed by the Additional Sessions Judge / Fast Track Court No. IV, Sultanpur in Sessions Trial No. 138/1999 (State vs. Karuna Shanker Singh and another), arising out of Case Crime No. 30/1999, under Section 302 IPC, Police Station Baldirai, District Sultanpur. By the impugned judgment, the trial court convicted the appellant Karuna Shanker Singh alias Nintoo under Section 302 of the Indian Penal Code (hereinafter referred to as "I.P.C.") and sentenced him to life imprisonment along with a fine of ₹10,000/-, and in default of payment of fine, to undergo one year additional rigorous imprisonment.

3. The prosecution case in brief is that the deceased Ajay Kumar Singh, aged about 22 years, was a student of B.A. Part-III at Rana Pratap Post Graduate College, Sultanpur. On 02.02.1999 at about 9:00 AM, he left his house on foot to attend college at Sultanpur. When he failed to return home by evening, his family members began searching for him. In the night between 8:00 PM and 9:00 PM, complainant's wife Smt. Savitri Devi informed that around 2:00 PM while she was working in the field, she had seen her son Ajay Kumar going along with the accused Karuna Shanker Singh and Dharmraj Yadav towards the north. Despite search, Ajay Kumar could not be traced out that night. On the next morning, i.e., 03.02.1999, information was received that Ajay Kumar had been murdered by sharp-edged cutting weapons and his dead body was lying near the canal at village Narsinghpur, Hamlet of Deeh, within the jurisdiction of Police Station Baldirai.

4. Following the incident, a written report was submitted by the complainant Bambahadur Singh (P.W. 1) at Police Station Baldirai on 03.02.1999 at 1:00 PM, on the basis of which Chick FIR No. 8/1999 was registered as Case Crime No. 30/1999 under Section 302 IPC (Ex. Ka-06) by Head Constable Komalnath Singh (P.W. 6) and GD entry was made at Report No. 14 at 13:00 hrs (Ex. Ka-07). The investigation was undertaken by Station Officer Ram Naresh Yadav (P.W. 7), who reached the spot and conducted the inquest (पंचायतनामा) on the dead body of the deceased Ajay Kumar Singh on 03.02.1999 between 2:40 PM and 3:40 PM (Ex. Ka-08). The I.O. collected plain and blood-stained earth from the spot (Ex. Ka-15), prepared the site plan of the place of occurrence (Ex. Ka-14), and dispatched the dead body in a sealed bundle for post-mortem examination through Constables Jaypal Saroj and Ganga Ram (P.W. 10).

5. On 04.02.1999 at 1:30 PM, Dr. P.M. Srivastava (P.W. 5), Senior Child Specialist, District Hospital, Sultanpur, conducted the autopsy on the cadaver of deceased Ajay Kumar Singh and proved the Post-Mortem Report (Ex. Ka-05). The autopsy surgeon found as many as 44 ante-mortem incised/cut wounds distributed all over the body, including vital

parts such as the skull, face, neck, back, chest, and defensive cut wounds over both hands, thumbs, and fingers. On internal examination, the left parietal, temporal, and occipital bones were found fractured, the brain was found lacerated with subdural hematoma, the base of the skull was found fractured, and both chambers of the heart as well as the stomach and urinary bladder were found completely empty. The doctor opined that the cause of death was coma, shock, and excessive hemorrhage resulting from ante-mortem cut injuries caused by a deadly heavy sharp-cutting weapon, such as a Gandasah.

6. During the course of investigation, the appellant Karuna Shanker Singh was arrested on 07.02.1999 at 12:30 PM near the Gomti bridge, Isauli (Ex. Ka-21). On his pointing out and confession under Section 27 of the Evidence Act, one iron Gandasa (the weapon of offense) and a blood-stained sweater belonging to him were recovered from beneath dry straw in a tube-well room (Ex. Ka-18), and a pair of slippers was recovered from the mud near the canal embankment (Ex. Ka-17). The medical examination of the appellant Karuna Shanker Singh was conducted on 08.02.1999 by Dr. Manoj Kumar (P.W. 9), Medical Officer, PHC Baldirai, who proved his injury report (Ex. Ka-25), noting an old abrasion on his right palm. The recovered articles were dispatched to the Forensic Science Laboratory (FSL), Lucknow, which submitted its report (Ex. Ka-26) confirming the presence of human blood on the clothing items and disintegrated blood on the Gandasa. After completing the investigation, the Investigating Officer submitted the Charge-sheet (Ex. Ka-23) against both accused persons.

7. To substantiate its case, the prosecution examined ten witnesses, namely, P.W. 1 Bambahadur Singh, P.W. 2 Smt. Savitri Devi, P.W. 3 Jang Bahadur Singh, P.W. 4 Pradeep Kumar, P.W. 5 Dr. P.M. Srivastava, P.W. 6 Head Constable Komalnath Singh, P.W. 7 S.O. Ram Naresh Yadav, P.W. 8 Dr. G.P. Shukla, P.W. 9 Dr. Manoj Kumar, and P.W. 10 Constable Ganga Ram.

8. In his statement recorded under Section 313 Cr.P.C., the appellant Karuna Shanker Singh denied the prosecution allegations and pleaded complete innocence. He stated that he was falsely implicated due to village party-bandi and long-standing litigation enmity. He specifically stated that he was illegally picked up from his home by the police, assaulted in custody, and that a false injury report was prepared under police pressure, and that the recovery of the Gandasa and clothes was entirely fabricated. Co-accused Dharmraj Yadav also denied the prosecution allegations.

9. The defence examined no witnesses in their favour, nor did they produce any documentary evidence on record.

10. Upon evaluating the oral and documentary evidence, the trial court held that the date, time and place of offence stood conclusively established by the prosecution witnesses' testimonies. The FIR is prompt, and the testimonies of P.W. 1 Bambahadur Singh, P.W. 2 Savitri Devi, P.W. 3 Jang Bahadur Singh, and P.W. 4 Pradeep Kumar supported the prosecution version. The prosecution established the circumstantial chain of "last seen" and the recovery of the weapon used in the commission of the offence on the pointing out of the appellant-accused, as well as the recovery of the blood-stained clothes which were verified in the examination of the FSL. Motive was established. As many as 44 cut wounds were caused on the body of the deceased which corroborated the ocular evidence. The place of occurrence stood proved. However, the charge levelled against co-accused Dharmraj Yadav was not found proved and he was acquitted by extending the benefit of doubt, but the offence under Section 302 IPC against the appellant-accused Karuna Shanker Singh was found proved beyond reasonable doubt. Consequently, the trial court convicted and sentenced the appellant-accused as above mentioned.

11. Being aggrieved by the impugned judgment and order of the trial court, the appellant-accused preferred the present appeal.

12. During the pendency of the present appeal, an application was filed praying for declaring the appellant as a juvenile.

13. It is contended by the learned counsel for the appellant that as on the date of the incident, i.e., 02.02.1999, the appellant was a juvenile, his date of birth being 15.11.1981 as per the High School certificate/marksheet and the school leaving certificate/transfer certificate of Class-8th, copies whereof have been brought on record as Annexure No. 1 to the affidavit filed in support of the application.

14. It was argued that under Section 7A of Act of 2000, the plea of juvenility can be raised at any stage. It is expedient to extract provisions of Section 7A of Act, 2000 as below:

“[7A. Procedure to be followed when claim of juvenility is raised before any court.—

(1) Whenever a claim of juvenility is raised before any court or a court is of the opinion that an accused person was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) so as to determine the age of such person, and shall record a finding whether the person is a juvenile or a child or not, stating his age as nearly as may be:

Provided that a claim of juvenility may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such claim shall be determined in terms of the provisions contained in this Act and the rules made thereunder, even if the juvenile has ceased to be so on or before the date of commencement of this Act.

(2) If the court finds a person to be a juvenile on the date of commission of the offence under sub-section (1), it shall forward the juvenile to the Board for passing appropriate orders and the sentence, if any, passed by a court shall be deemed to have no effect.]”

15. It was argued that under the provisions of the Juvenile Justice Act, the plea of juvenility can be raised at any stage, even after final disposal of the case.

16. An objection/counter affidavit has been filed by the State-respondents, wherein in paragraph 5 it has been stated that the High School marksheet and the school leaving certificate have been duly

verified by the respondent authorities and as per the transfer certificate and certificate issued by the Principal of the Poorva Madhyamik Vidyalaya, Deeh, Baldirai, Sultanpur, the date of birth of the appellant has been found to be 15.11.1981. It is thus not in dispute that the appellant, having the date of birth as 15.11.1981, was a juvenile on the date of the incident.

17. We have proceeded to consider the said records and verification submitted on behalf of the State.

18. Section 94 of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "Act, 2015") provides for presumption and determination of age of a juvenile. For ready reference, the same is reproduced herein under:

“94. Presumption and determination of age.—(1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under Section 14 or Section 36, as the case may be, without waiting for further confirmation of the age.

(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining—

(i) the date of birth certificate from the school, or the matriculation or equivalent from the concerned examination Board, if available; and in the absence thereof;

(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.

(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.

18.1. Thus the process of age determination is provided in sub-section (2) of Section 94 which is identical to the procedure

prescribed under sub-rule (3) of Rule 12 of the JJ Rules, 2007, which is extracted herein-below:

“(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the Court or the Board or, as the case may be, the Committee by seeking evidence by obtaining-

(a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;

(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;

(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;

(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.”

19. Thus the process of age determination is provided in sub-section (2) of Section 94, which gives primacy to the matriculation or equivalent certificate, or date of birth certificate from the school first attended.

20. In the present case, the educational records and the school transfer certificate of Class-8th as well as the High School certificate have been verified by the State authorities and found to be genuine, establishing his date of birth as 15.11.1981.

21. The prosecution has raised no dispute to the said verified date of birth.

22. We have perused the verified documents on record. As per the said conclusive evidence and the counter affidavit filed by the State, the date of birth of the appellant Karuna Shanker Singh is 15.11.1981. When the

date of incident is seen, which is 02.02.1999, we find the appellant to be aged 17 years, 2 months and 17 days on the date of incident, and as such he was a juvenile on the date of incident. We hold accordingly.

23. The next question arises for our consideration is whether the conviction of the appellant is justified or not.

24. Learned counsel for the appellant states that he does not intend to challenge the conviction of the appellant, but prays that, keeping in view the law laid down by the Hon'ble Supreme Court in **Mumtaz v. State of U.P., (2016) 11 SCC 786**, the sentence be set aside and the matter be remitted to the jurisdictional Juvenile Justice Board for determining the appropriate order/sentence as prescribed under law.

25. On the other hand, the learned A.G.A. does not dispute the verified date of birth of the appellant and also does not dispute the proposition of law laid down by the Hon'ble Supreme Court in the case of Mumtaz (supra).

26. From the perusal of the record and autopsy report of the deceased Ajay Kumar, it emerges that he had been brutally killed by inflicting blows of a deadly sharp-edged weapon on various parts of the body, resultantly he succumbed to the injuries. There is no contradiction between ocular and medical evidence in this regard.

27. This case rests on circumstantial evidence. To establish the chain of circumstantial evidence, the prosecution has examined witnesses.

28. Out of them, P.W. 2 Savitri Devi deposed that on the date of occurrence, while she was busy in agricultural work in her field, she had seen that her deceased son Ajay Kumar was going along with the accused persons, and when she asked him, he replied that he was going along with the accused persons and would return after some time. But in the night until 8:00 PM, he did not return. Another witness, P.W. 3 Jang Bahadur Singh, was also examined to corroborate the theory of "last seen together", who stated that he had seen the deceased Ajay Kumar in the company of the accused persons when they were going along the

canal embankment (पटरी). Their testimony remained intact, and they are witnesses of sterling quality. Therefore, no reason arises to disbelieve the veracity of these witnesses. The presence of the deceased and the appellant-convict at the place of occurrence, and thereafter the discovery of his dead body, sufficiently substantiated the prosecution version with regard to the culpability of the appellant-accused. Apart from this, the weapon, Gandasa, which was used in the commission of the offence, had been recovered on the pointing out of the appellant-convict, and the blood-stained cloth which he had worn at the time of commission of the offence was also recovered. This fact has been corroborated by the independent recovery witness Pradeep Kumar (P.W. 4). On examination in the FSL, blood was found on the Gandasa and the cloth which was sent for examination.

29. The learned trial court, on the basis of evidence adduced by the prosecution, after elaborate discussion observed and concluded that the appellant-convict is responsible for committing the offence. Consequently, he has been held guilty for the offence with which he had been charged. Thus, we find no perversity or illegality in the impugned judgment and conviction of the appellant-convict.

30. In the circumstances of the case, no interference in the finding recorded by the trial court regarding the conviction of the appellant-convict is warranted, and the conviction of the appellant is accordingly upheld.

31. After upholding the conviction of the appellant-convict, the next point which arises before us for consideration is as to what sentence would be appropriate for the appellant-convict.

32. In this regard, it would be apt to refer to the judgment of the Hon'ble Supreme Court in *Mumtaz (supra)*, wherein the Hon'ble Supreme Court also considered the interplay of the Juvenile Justice Act, 1986 and the Act of 2000, and the procedure to be adopted when a claim of juvenility is raised during the pendency of a criminal appeal.

33. The Hon'ble Supreme Court held as under:

18. The effect of Section 20 of the 2000 Act was considered in Pratap Singh v. State of Jharkhand [Pratap Singh v. State of Jharkhand, (2005) 3 SCC 551 : 2005 SCC (Cri) 742] and it was stated as under : (SCC p. 570, para 31)

“31. Section 20 of the Act as quoted above deals with the special provision in respect of pending cases and begins with a non obstante clause. The sentence

‘notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act came into force’

has great significance. The proceedings in respect of a juvenile pending in any court referred to in Section 20 of the Act are relatable to proceedings initiated before the 2000 Act came into force and which are pending when the 2000 Act came into force. The term “any court” would include even ordinary criminal courts. If the person was a “juvenile” under the 1986 Act the proceedings would not be pending in criminal courts. They would be pending in criminal courts only if the boy had crossed 16 years or the girl had crossed 18 years. This shows that Section 20 refers to cases where a person had ceased to be a juvenile under the 1986 Act but had not yet crossed the age of 18 years then the pending case shall continue in that court as if the 2000 Act has not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, shall forward the juvenile to the Board which shall pass orders in respect of that juvenile.”

19. In Bijender Singh v. State of Haryana [Bijender Singh v. State of Haryana, (2005) 3 SCC 685 : 2005 SCC (Cri) 889] , the legal position as regards Section 20 was stated in the following words : (SCC pp. 687-88, paras 8-10 & 12)

“8. One of the basic distinctions between the 1986 Act and the 2000 Act relates to the age of males and females. Under the 1986 Act, a juvenile means a male juvenile who has not attained the age of 16 years, and a female juvenile who has not attained the age of 18 years. In the 2000 Act, the distinction between male and female juveniles on the basis of age has not been maintained. The age-limit is 18 years for both males and females.

9. A person above 16 years in terms of the 1986 Act was not a juvenile. In that view of the matter the question whether a person above 16 years becomes “juvenile” within the purview

of the 2000 Act must be answered having regard to the object and purport thereof.

10. In terms of the 1986 Act, a person who was not juvenile could be tried in any court. Section 20 of the 2000 Act takes care of such a situation stating that despite the same the trial shall continue in that court as if that Act has not been passed and in the event, he is found to be guilty of commission of an offence, a finding to that effect shall be recorded in the judgment of conviction, if any, but instead of passing any sentence in relation to the juvenile, he would be forwarded to the Juvenile Justice Board (in short “the Board”) which shall pass orders in accordance with the provisions of the Act as if it has been satisfied on inquiry that a juvenile has committed the offence. A legal fiction has, thus, been created in the said provision. A legal fiction as is well known must be given its full effect although it has its limitations. ...

*11.****

12. Thus, by reason of legal fiction, a person, although not a juvenile, has to be treated to be one by the Board for the purpose of sentencing, which takes care of a situation that the person although not a juvenile in terms of the 1986 Act but still would be treated as such under the 2000 Act for the said limited purpose.”

20. *In Dharambir v. State (NCT of Delhi) [Dharambir v. State (NCT of Delhi), (2010) 5 SCC 344 : (2010) 2 SCC (Cri) 1274] the determination of juvenility even after conviction was one of the issues and it was stated : (SCC p. 347, paras 11-12)*

“11. It is plain from the language of the Explanation to Section 20 that in all pending cases, which would include not only trials but even subsequent proceedings by way of revision or appeal, etc., the determination of juvenility of a juvenile has to be in terms of clause (1) of Section 2, even if the juvenile ceases to be a juvenile on or before 1-4-2001, when the 2000 Act came into force, and the provisions of the Act would apply as if the said provision had been in force for all purposes and for all material times when the alleged offence was committed.

12. Clause (1) of Section 2 of the 2000 Act provides that “juvenile in conflict with law” means a “juvenile” who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence. Section 20 also enables the court to consider and determine the juvenility of a person even after conviction by the regular court and also empowers the court, while maintaining the conviction, to set aside the sentence imposed

and forward the case to the Juvenile Justice Board concerned for passing sentence in accordance with the provisions of the 2000 Act.”

21. Similarly in Kalu v. State of Haryana [Kalu v. State of Haryana, (2012) 8 SCC 34 : (2012) 3 SCC (Cri) 761] this Court summed up as under : (SCC p. 41, para 21)

“21. Section 20 makes a special provision in respect of pending cases. It states that notwithstanding anything contained in the Juvenile Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which the Juvenile Act comes into force in that area shall be continued in that court as if the Juvenile Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile forward the juvenile to the Board which shall pass orders in respect of that juvenile in accordance with the provisions of the Juvenile Act as if it had been satisfied on inquiry under the Juvenile Act that the juvenile has committed the offence. The Explanation to Section 20 makes it clear that in all pending cases, which would include not only trials but even subsequent proceedings by way of revision or appeal, the determination of juvenility of a juvenile would be in terms of clause (l) of Section 2, even if the juvenile ceased to be a juvenile on or before 1-4-2001, when the Juvenile Act came into force, and the provisions of the Juvenile Act would apply as if the said provision had been in force for all purposes and for all material times when the alleged offence was committed.”

22. It is thus well settled that in terms of Section 20 of the 2000 Act, in all cases where the accused was above 16 years but below 18 years of age on the date of occurrence, the proceedings pending in the court would continue and be taken to the logical end subject to an exception that upon finding the juvenile to be guilty, the court would not pass an order of sentence against him but the juvenile would be referred to the Board for appropriate orders under the 2000 Act. What kind of order could be passed in a matter where claim of juvenility came to be accepted in a situation similar to the present case, was dealt with by this Court in Jitendra Singh v. State of U.P. [Jitendra Singh v. State of U.P., (2013) 11 SCC 193 : (2013) 4 SCC (Cri) 725] in the following terms : (SCC pp. 210-11, para 32)

“32. A perusal of the “punishments” provided for under the Juvenile Justice Act, 1986 indicate that given the nature of the offence committed by the appellant, advising or admonishing him [clause (a)] is hardly a “punishment” that can be

awarded since it is not at all commensurate with the gravity of the crime. Similarly, considering his age of about 40 years, it is completely illusory to expect the appellant to be released on probation of good conduct, to be placed under the care of any parent, guardian or fit person [clause (b)]. For the same reason, the appellant cannot be released on probation of good conduct under the care of a fit institution [clause (c)] nor can he be sent to a special home under Section 10 of the Juvenile Justice Act, 1986 which is intended to be for the rehabilitation and reformation of delinquent juveniles [clause (d)]. The only realistic punishment that can possibly be awarded to the appellant on the facts of this case is to require him to pay a fine under clause (e) of Section 21(1) of the Juvenile Justice Act, 1986.”

23. *In Jitendra Singh v. State of U.P. [Jitendra Singh v. State of U.P., (2013) 11 SCC 193 : (2013) 4 SCC (Cri) 725] , having found the juvenile guilty of the offence with which he was charged, in accordance with the law laid down by this Court as stated above, the matter was remanded to the jurisdictional Juvenile Justice Board constituted under the 2000 Act for determining appropriate quantum of fine. The view taken therein is completely consistent with the law laid down by this Court and in our opinion the decision in Jitendra Singh v. State of U.P. [Jitendra Singh v. State of U.P., (2013) 11 SCC 193 : (2013) 4 SCC (Cri) 725] does not call for any reconsideration. The subsequent repeal of the 2000 Act on and with effect from 15-1-2016 would not affect the inquiry in which such claim was found to be acceptable. Section 25 of the 2015 Act makes it very clear:*

24. *Thus, while holding appellant Dilshad alias Pappu to be juvenile in terms of the 2000 Act as on the day of occurrence and guilty of the offence with which he was tried, we set aside the sentence of life imprisonment passed against him and remit the matter to the jurisdictional Juvenile Justice Board for determining the appropriate quantum of fine that should be levied on the appellant Dilshad alias Pappu and the compensation that should be awarded to the family of the deceased, keeping in mind the directions issued in Jitendra Singh v. State of U.P. [Jitendra Singh v. State of U.P., (2013) 11 SCC 193 : (2013) 4 SCC (Cri) 725]*

25. *Criminal Appeal No. 2084 of 2009 is thus dismissed while Criminal Appeal No. 460 of 2010 is allowed to the aforesaid extent and the matter as regards appellant Dilshad alias Pappu stands remitted to the jurisdictional Juvenile Justice Board for determination as aforesaid. The bail bonds furnished by appellant Mumtaz alias Muntyaz are cancelled and he shall*

be taken in custody forthwith to undergo the sentence awarded to him."

34. Thus, where a juvenile is found guilty of the offence alleged to have been committed, he simply cannot go unpunished, but what punishment should be awarded, must be left to the Juvenile Justice Board constituted under the Act.

35. In the present case, the offence was committed by the appellant-convict on 02.02.1999 when the Juvenile Justice Act, 1986 was in force, and by virtue of the subsequent enactments and the law laid down by the Hon'ble Supreme Court, only the punishments/orders permissible under the law governing juveniles ought to be awarded.

36. The conviction of the appellant is upheld; however, the matter is remitted to the Juvenile Justice Board concerned for passing appropriate orders qua sentence.

37. The appellant, who is already on bail, shall appear before the Juvenile Justice Board concerned on 27.10.2026 along with a certified copy of this judgment.

38. The Board shall pass appropriate orders strictly in accordance with law within a period of four weeks from the date of communication of a certified copy of this order.

39. Keeping in view the aforesaid observations, the appeal is **partly allowed** to the extent of sentence as indicated above.

40. Trial court record be sent back along with a copy of this judgment for compliance as per rules.

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)

October 13, 2026

Haseenuddin