

A.F.R

Neutral Citation No. - 2025:AHC:121427

Reserved On:- 01.07.2025

Delivered On:- 24.07.2025

Case :- CRIMINAL REVISION No. - 4833 of 2024

Revisionist :- Juvenile X

Opposite Party :- State Of U.P. And 3 Others

Counsel for Revisionist :- Ajai Kumar Srivastava, Govind Prasad Pal

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

1. Heard learned counsel for revisionist; Ms. Manju Thakur, learned A.G.A-I, for State and perused the material on record.

2. No one has turned up on behalf of opposite party no. 2.

3. The present criminal revision has been filed challenging the impugned judgment / order dated 12.12.2023 passed by the Juvenile Justice Board, Kaushambi in Case Crime No. 412 of 2022 (State vs. Child in conflict with law ABCJU) and the impugned judgment / order dated 13.08.2024 passed by the learned POCSO Court / Special Judge (POCSO Act), Kaushambi in Criminal Appeal No. 01 of 2024 (Raju Pal @ Ram Milan vs. State of U.P & others) on the ground that the impugned orders have wrongly held the revisionist to be tried as adult and his assessment by the Juvenile Justice Board as well as Special Court is not in accordance with law.

4. Counsel for the revisionist submits that in both, the assessment and medical reports, it was assessed and held by the experts that psychological assessment of juvenile are suggestive of mild deficit in intellectual functioning. Also, some difficulty in social domain, as assessed by the CBCL, was found borderline to mild in clinical range, even then vide impugned judgment / order dated 12-12-2023, the Juvenile Justice Board, Kaushambi by ignoring the Preliminary Assessment Report dated 03-11-

2023 and Psychological Assessment Report dated 09-11-2023 sent the matter before the POCSO Court for trial and the POCSO Court vide impugned judgment / order dated 13-08-2024 confirmed the stand taken by the Juvenile Justice Board, Kaushambi, as such both the impugned judgments / orders passed by both the Courts below are wholly unsustainable in the eyes of law and liable to be set aside by this Court.

5. He further submits that the impugned judgment / order dated 12-12-2023 of the Juvenile Justice Board, Kaushambi holds that the clinical psychologist report states that there appears mild deficit in mental status, even then the Board had relied upon the allegations made in the first information report as well as statement of victim recorded under Section 164 Cr.P.C., by ignoring the clinical psychologist report and held that the Juvenile Justice Board, Kaushambi is not bound by the reports submitted by the experts and has disagreed with the reports. It is submitted that denying the experts report will frustrate the provisions of Section 15 (1) of The Juvenile Justice Act, 2015, which may not be allowed.

6. Learned counsel for the State has submitted that although the preliminary assessment report under Section 15(1) and the report of psychologist are in favour of the juvenile but the board has recorded clear findings that since the revisionist indulged in physical relationship with the victim, aged about 14 years, for one year and when she became pregnant for five months, he administered her medicine which resulted in abortion of her pregnancy and therefore the revisionist was required to be tried as an adult. He was well aware of the consequences of his act and had criminal inclination of mind.

7. The courts have found that the revisionist was able to understand the consequence of crime committed by him and therefore the board is not bound to accept the report of the psychologist and has held that the revisionist is required to be tried as an adult.

8. Learned counsel for the revisionist has placed reliance upon a judgment of this court passed in Criminal Revision No. 656 of 2022, Minor 'X' vs. State of U.P. and Another. In this revision the dispute was that even on the request of Juvenile to send him for the examination by the psychologist / psychiatrist or other expert, he was not sent for examination and the Juvenile Justice Board without taking assistance of psychologist or expert held that the revisionist is required to be tried as an adult.

9. This court held in the aforesaid judgment that the section 15 of the J.J. Act although provides that the board may take assistance and psychologist or psychiatrist or expert but the word 'may' indicates that it is mandatory and not optional for the Juvenile Justice Board. Hence, the matter was remanded to the board for preliminary assessment as per Section 15(1) of the J.J. Act. Clearly the case law has no application to the present case. It has been cited out of context by the learned counsel for revisionist.

10. The Juvenile Justice (Care and Protection of Children) Act, 2015 (in short 'the Act') was brought in the system of criminal trial wherein juvenile aged between 16-18 years can be deemed to be an adult in case of commission of heinous offences and therefore can be tried before a criminal court under Section 6 of the Code of Criminal Procedure, 1973 (in short 'Cr P C') in accordance with the ordinary procedure of law. Section 15 of the Act provides the mechanism for determination of the mental and physical capacity of a juvenile of such age regarding the commission of the offences and the consequences thereof in order to presume such juvenile 'as an adult' by employing legal fiction. The juvenile in fact need not to be an adult. But in law such juvenile will be considered as an adult. Since such an inquiry has immense ramification qua a juvenile aged between 16-18 years, it is of paramount importance that the said inquiry is conducted following the provisions of law in its letters and spirits. But in fact more often than not, it is found that such legal mandate in conducting such an inquiry is breached in impunity.

11. According to Section 14 of the Act, when a 'child in conflict with law' within the meaning of Section 2 (13) of the Act is produced before the Juvenile Justice Board (in Short 'the Board') constituted under Section 4 of the Act, the Board is obligated to hold an inquiry as per Chapter XXI of the Code of Criminal Procedure, 1973 (in short 'Cr PC') in case of petty offence defined under Section 2(45) of the Act (vide Section 14 (5)(d)); or an inquiry as per Chapter XX of Cr P C in case of serious offence defined under Section 2(54) of the Act (vide Section 14(5)(e)), or an inquiry as per Chapter XX of Cr P C in case of heinous offence defined under Section 2(33) of the Act for a child below the age of sixteen years as on the date of commission of the offence (vide Section 14(5)(f)(i)). At the conclusion of such inquiry the Board may pass either an order of exoneration under Section 17 or an order of conviction under Section 18 of the Act. In case an Order is passed under Section 18 of the Act, the Board is required to follow the provisions mentioned under Section 18(1) and / or 18(2) of the Act.

12. However, in case 'a child in conflict with law' above the age of sixteen years as on the date of commission of the offence being an accused of a 'heinous offence', a preliminary assessment inquiry has to be conducted in terms of Section 15 of the Act (vide Section 14(3)/ 14(5)(f)(ii)).

13. The purpose of such preliminary assessment test under Section 15 of the Act is to ascertain as to whether 'the child in conflict with law' is required to be tried as an adult by a Children's Court (vide Section 18(3)) or by the Board. In the aforesaid eventuality, once 'a child in conflict with law' is produced before the Board, it is therefore, imperative for the Board to conduct a preliminary assessment test under Section 15 of the Act with regard to:

- a. The mental and;
- b. Physical capacity to commit a heinous offence within the meaning of Section 2(33) of the Act and;
- c. Ability to understand the consequences of the offence and;

d. The circumstances in which he allegedly committed the offence.

14. In coming to such a conclusion the board may take the assessment of experienced psychologist or psycho-social workers or other experts.

15. In this regard, it may be mentioned that the Board must consist of a Magistrate with at-least 3 years of experience and two social workers (vide Section 4(2)).

16. Rule 10A of the said Act (Care and Protection of children) Model Rules, 2016 (in short 'Central Rules') prescribes the procedure for preliminary assessment into heinous offences by the Board. It provides that the Board shall in the first instance determine whether the child is of 16 years of age or above. According to sub-Rule (2) of the Central Rules, for the purpose of conducting a preliminary assessment in case of heinous offences the Board may take assistance of psychologist or psycho-social workers or other experts who have experience of working with the children in different circumstances. According to sub-rule (3) of the Central Rules, while making the preliminary assessment, the child shall be presumed to be innocent. According to sub-rule (4) of the Central Rules, where the board, upon a preliminary assessment passes an order that there is a need for trial of the said child as an adult, 'it shall assign reasons for the same'.

17. In order to appreciate the aforesaid provisions Section 3 of the said Act may be taken into consideration. Section 3 enumerates 'General Principles to be followed in administration of the said Act'. According to Clause (i) of Section 3, a child shall be presumed to be innocent of any mala-fide or criminal intent. According to clause (ix) of section 3, no waiver of any right of the child is permissible or valid. According to Clause (xvi), basic procedural safeguards of fairness shall be adhered to, including the right of a fair hearing, rule against bias, etc.

18. In the aforesaid backdrop, it is therefore evident that the preliminary assessment test is a compulsory step which has to be necessarily followed by

a Board once a child is produced before it in the eventualities as mentioned hereinabove. The procedure enumerated in Section 15 read with Rule 10A of Central Rules make it imperative for the Board to scrupulously and religiously follow the procedure in order to come to an independent decision, of course with aid of expert opinion. The crux is that the formulation of the opinion must, therefore be by the Board and none else. The Board cannot abdicate its essential judicial function. It is trite law that no decision making authority can abdicate its decision making power to another authority.

19. An order under Section 15 of the Act not only gives a different legal character to a juvenile aged between 16 to 18 years thereby presuming the said juvenile to be an adult in the contemplation of law, but also takes away the application of the beneficial provisions enumerated under Section 18(1)/(2) of the Act. It eventually determines the forum for trial, procedure for trial and the punishment that can ultimately be imposed in case the said juvenile is found to be guilty. Since the provision under Section 15 of the Act deals with a legal fiction (vide Section 18(3)), it has to be construed strictly. It is well settled that a deeming provision deserves strict construction.

20. Once an order is passed under Section 19 (3) of the Act, the case of the said child is transferred to the Children's Court within the meaning of Section 2(20) of the Act. In case the Children's Court is a designated court under Section 25 of the Commissions for Protection of Child Rights Act, 2005 (in short 'the Child Rights Act') vis a vis under Section 28 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POSCO'), it will follow the procedure for trial of a sessions case under Chapter XVIII of Cr PC (vide Section 19 (2) read with Section 33 of POSCO vis a vis Section 25 of the Child Rights Act and Rule 12(8) of the Central Rules). The Children's Court may draw presumptions of guilt and culpable mental state under Sections 29 and 30 of POSCO respectively, in appropriate cases. It may pass any order of sentence except death sentence and life imprisonment

without remission (vide Section 21) unlike the Board under Section 18 of the Act. The protection against disqualification under Section 24 of the Act will also not operate qua a child in conflict with law who was tried as an adult by the Children's Court.

21. Section 15 of the Act therefore, envisages a crucial judicial examination which determines the status of the child qua a criminal trial. Though Section 15 of the Act is a component of an enquiry and not a trial, nevertheless, such inquiry requires application of judicial mind and the same is not a ministerial work. In this regard it may be mentioned that in the Act, the provisions for trial as envisaged under Cr PC has been generally conceptualized as inquiry. By virtue of sub-rule (3) of Rule 10A of Central Rule, during the decision making process the Board is obliged to presume the child to be an innocent.

22. The decision passed by the Board must necessarily be supported by reasons inasmuch as assigning reason is the best way out to demonstrate the application of mind. In case the reasoning fails, as a consequence thereof, the conclusion fails equally. An order under Section 15 of the said Act has therefore need to demonstrate satisfaction regarding the mental and/or physical capacity of the child to commit a heinous offence; the ability of the child to understand the consequences of the offences, and the circumstances in which the alleged offence had occurred.

23. In the present case, the petitioner, being more than 16 years of age as on the date of commission of alleged offence, the matter had to be considered in view of provisions of Section 15 of Act for the purpose of making preliminary assessment, as to whether the child in conflict with law had to be tried as an adult or not. The three parameters as provided under Section 15 of the Act are required to be followed strictly. The Act of 2015 has been enacted by the Parliament under the powers available under Article 253 of the Constitution of India, the age for trying the child/juvenile as an adult has been reduced from 18 to 16 years.

24. The case, in hand, falls within the category of heinous offence and the petitioner, being more than 16 years of age on the date of commission of offence, is required to be dealt with as per provisions of Section 15 of the Act for the purpose of making preliminary assessment. As per arguments of learned counsel for the petitioner, the Board has conducted the preliminary assessment and got the report from Psychologist as per provisions of the Act and Rules framed thereunder but court has not agreed to its findings. A conjoint reading of both Rules 10, 10A inconsonance with Section 14, 15 and 18(3) would reveal that the path to be tread upon by the Board, post the production of the Juvenile has been clearly spelt-out where heinous offence has been alleged to be committed by a child, who has completed 16 years of age. Rule 10(5) clearly reflects that the Child Welfare Police Officer is to produce the statements of witnesses and other documents prepared during the course of investigation within a period of one month from the date of first production of a child before the Board. It is also required that a copy thereof is to be given to the child or parent or guardian of the child. The legislature in its wisdom has prescribed the period of one month to produce the statements of the witnesses and other documents with a copy to the child, subsequent to which, the Preliminary Assessment in case of heinous offences under Section 15 of the Act has to be completed. Meaning thereby, the copy of list of witnesses and other documents along with copy of final report is to be supplied to the child or his parents or to the guardian before making the Preliminary Assessment as per provisions of Section 15 of the Act. It is also stipulated in Section 15 read with Rules 10 and 10-A along with other provisions of the Act that three basic parameters are necessary to be followed in case of a heinous offence before passing the order under Section 18(3) for determining the need for trial of a child as an adult. The Board had to follow three parameters for making Preliminary Assessment as to whether there is a need for the trial of said child as an adult or not. It is to be seen as to how the Board as well as the Appellate Court has appreciated the circumstances of the commission of alleged offence, without the list of witnesses, documents relevant to the matter as well as the final report, which

in any case the investigating authority is to file before the Board in less than two months of the production of the child before it.

25. In the present case, it appears that no list of witnesses and documents were supplied to the petitioner or his parents or guardian, which itself shows that the Board as well as the Appellate Court have decided the case without any application of mind and contrary to the provisions of the Act and the Rules framed thereunder.

26. There is no dispute that the offence of commission of which the accused appellant was charged with, fall within the category of 'heinous offences' as defined under Section 2(33) of the JJ Act. Section 15(1) provides that in case where a heinous offence/s are alleged to have been committed by a child who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he committed the offence. The Board, after conducting such assessment, may pass an order in accordance with the provisions of sub-section (3) of Section 18 of the JJ Act. Section 15(2) provides that where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial of summons case under CrPC. Under first proviso to this sub-section, the order passed by the Board is appealable under Section 101(2) of the JJ Act.

27. In the present case, there is no dispute that the provisions laid down under Sections 15 to 19 have been complied by the board and the Children's Court. The only issue involved in the revision is whether the report of the psychologist which was in favour of revisionist, could have been ignored by the Board and only on the ground that the revisionist has committed heinous offence as defined under Section 2(33) of J.J. Act he could have been held to be adult and required to be tried as an adult by the Children's Court.

28. The report of clinical psychologist is reproduced hereinbelow :-

CHIEF COMPLAINTS:

- *Poor academic performance*
- *Poor social interaction*
- *Difficulty in reading and writing*

Brief History: Patient was born full term normal delivery.

Birth cry?. No h/s/o jaundice, HGE, prenatal postnatal complications, seizure or head trauma. Speech was delayed. All the immunizations were provided. As per informant, there have been complaints from school regarding his academic difficulty. His parents also observed that he is facing difficulty in academic performance includes calculation and having poor writing and reading skills. As per informant he has very limited social interaction with his peer groups as well as with his neighbours. There is no h/s/o past psychiatric illness or prolonged hospitalization.

Information: Adequate and Reliable

Behavioral Observation

Patient was well-groomed. He was able to maintain eye-contact. Initially it was difficult to establish rapport with patient however working rapport established in second session of clinical interviewing. Attention could be aroused with little difficulty and sustained throughout the session. He was co-operative and listening carefully to the test instructions. His speech was relevant and coherent, rate tone and volume was decreased. He was cooperative throughout the session. No signs of hyperactivity or any perceptual abnormality could be observed. Test was completed in two sessions with short breaks when required.

TEST ADMINISTERED:

- 1. Bender Gestalt Test (BGT/BGVMT) - To assess perceptual and visual motor functioning involving sensory reception, interpretation and organization.*
- 2. Child Behavior Check List (CBCL)*
- 3. Senguine Form Board test (SFBT) 4. Binet Kamat Test*

(BKT) TEST FINDINGS:

1. On Bender Gestalt Test patient obtained a raw score of 8 indicative of mild dysfunction in visuo-motor and organizational skills.

2. The CBCL was completed by the mother of the child to obtain the parental perception of the child's competencies and problems. On the CBCL, the Internalizing Scale attempts to tap problems which are within the self. It includes the domains of Anxious/Depressed, Withdrawn/Depressed and Somatic Complaints. On the internalizing scale, constituting the domain scores of Anxious / Depressed (T Score=51, Percentile=52), Withdrawn / Depressed (T Score =54, Percentile= 62) and Somatic complaints (T Score =57, Percentile= 75), the child obtained score of 5, with a corresponding T-score of 52. These scores fall in the Normal range.

The Externalizing Scale of the CBCL attempts to tap problems that mainly involve conflicts with other people and with their expectations for the child. It includes the domains of Rule Breaking Behavior and Aggressive Behavior. On the Externalizing Scale, constituting the domain scores of Rule Breaking Behavior (T Score = 58, Percentile= 53), and Aggressive Behavior (T Score =55, Percentile= 65), the child obtained a score of 8, with a corresponding T-score of 54. These scores fall in the Normal range. The Total Behavior Problem Score, constituting the internalizing scale scores, externalizing scale scores and scores on the domains of social problems (T Score= 67, Percentile= 94), thought problems (T Score=50, Percentile=<50) and attention problems (T Score=68, Percentile= 95), was found to be 34, with a corresponding T score of 57, which is indicative of the Normal Range. Scores in the social problems sub domains are in the Borderline to mild clinical range.

3. On SFBT, patient has the form concept and was able to complete the test within given time limit. The shortest time he has taken on SFBT Was 27.64 seconds, suggestive of 6 years of mental age. The total time was 97.23 seconds, which also suggestive of 6 years of mental age. Low performance on SFBT was seems to be affected by poor and limited environmental exposure.

4. On BKT IQ (Intelligence quotient), child's IQ was 66 suggestive of mild deficit in Intellectual functioning.

IMPRESSION

On the basis of detailed clinical observations, history, mental status examination, findings of psychological assessments are suggestive **mild deficit** in Intellectual functioning. Also some difficulty in social domains as assessed by the CBCL was found **borderline to mild clinical range**.

29. The categories of BKT IQ as per Indian Journal of Mental Health 2020 are as follows :-

Normally used categories		BKT IQ
Very superior		Above 137
Superior		125 – 136
High / Above average		113 – 124
Average		87 – 112
Low / Below average		75 – 86
Borderline		64 – 74
Intellectual Disability / Mental Retardation	Mild	38 - 63
	Moderate	19 - 37
	Severe	Below 19 (BKT does not differentiate between severe and profound)
	Profound	

30. This court finds that the report of psychologist was in favour of the revisionist. In the report it was clearly mentioned that the mental age of revisionist was six years only when he was above 16 years of age. From the BKT IQ categories noted above the revisionist with score of 62 comes in borderline category which is even below the category of low / below average. It is also apparent from record that before the children’s court an application was made on behalf of revisionist for his re-medical examination with regard to age which was rejected. It is clear from the facts of the case that the revisionist indulged in physical relationship with the victim, aged about 14 years, for one year and when she became pregnant, he called the victim to his house, where the revisionist, Chedilal and Ram Prasad, after threatening the victim gave her some medicine which resulted in abortion of her pregnancy. Therefore, the administration of medicine was not done on sole discretion of revisionist rather two other persons were involved by revisionist. He was not capable nor he took decision to administered the

victim medicine alone. Keeping his conduct in view the orders of the courts below are not justified.

31. This court finds that the Hon'ble Bombay High Court in the case of **Mumtaz Ahmed Nasir Khan and Others vs. State of Maharashtra and Others, 2019(4) Bom CR (Cri) 261** (Bombay) has addressed the root cause of such offences being committed by juveniles as follows :-

“33. As Section 15 permits the Board may, during the preliminary assessment, take the assistance of experienced psychologists or psychosocial workers or other experts. First, the preliminary assessment is "not a trial." Second, it is, instead, an inquiry to assess the child's capacity to commit the alleged offence and to understand its consequences. On inquiry, the Board must satisfy itself in its preliminary assessment about the juvenile's mental and physical capacity, his ability to understand the consequences of the offence, and so on. Then, if the Board is "satisfied on preliminary assessment that the matter should be disposed of", it will follow "the procedure, as far as may be, for trial in summons case under Cr PC." The Board's order is appealable under sub-section (2) of Section 101.

38. A universally accepted ideal is that children are dependent and deficient in the mental and physical capacities, and are in need of guidance. Perhaps, initially, a multi-visual medium like TV; later, a globe devouring internet (appropriately, ominously worded as "world wide web"), and finally-and fatally-the post-truth social media have let the children, especially the adolescents, leapfrog into the adult world. Mostly it is a crash-landing, with disastrous consequences. So the childhood innocence is the casualty. These devices may have made a child bypass his or her childhood, sadly. Then, naturally, the theory of reduced culpability for juveniles relative to adults has taken a statutory dent. The good-old-days icon of a truant child seems to get replaced by the modern-day mascot of a violent predator.

.....

.....

87. So we need to revisit Section 15 of the Act to determine what circumstances compel a juvenile to face the trial as if he were an adult. (1) It must be a heinous offence; here it is. (2) The child must have completed sixteen years; here he has. (3) The Board must have conducted a preliminary assessment; here it has. (4) That preliminary assessment concerns four aspects: (a) the child's mental and (b) physical capacity to commit such offence; (c) his ability to understand the consequences of the offence; (d) and the

circumstances in which he allegedly committed the offence. The preliminary assessment, indeed, has been on all these aspects. Agreed. But has the Board found the child fitting into the scheme on all four counts?

88. I reckon of the four aspects-physical capacity, mental ability, understanding, and the circumstances-none is dispensable. They all must be present, for they are not in the alternative. Let us remind ourselves, just because the statute permits a child of 16 years and beyond can stand trial in a heinous offence as an adult, it does not mean that the statute intends that all those children should be subject to adult punishment. It is not a default choice; a conscious, calibrated one. And for that, all the statutory criteria must be fulfilled.

.....
.....

92. The explanation to Section 15 of the Act clarifies that the preliminary assessment is not a trial; it is an exercise to assess the child's capacity to commit and understand the consequences of the alleged offence.

93. In this context, if the Board's criteria of evaluation, as affirmed by the Appellate Court, are followed, then every case becomes an open and shut case. If the child is 16 or above and is capable of committing the offence and understanding the consequences, that will suffice. I am afraid it ought to be more than that. The whole endeavor of the JJ Act is to save the child in conflict with the law from the path of self-destruction and being a menace to the society. It is reformative, not retributive. Section 15, I believe, must be read and understood keeping in view the objective that permeates the whole Act and the spirit it is imbued with.

*94. That to contain crime, the State must be strict and the punishment must be harsh is an intuitive assertion; but sometimes the solution to the crime are counterintuitive. Steven D. Levitt and Stephen J. Dubner, in their popular book Freakonomics[16] , have hypothesized that the juvenile crime in a few of states of the US has come down thanks to **Roe v. Wade**, a judgment of the American Supreme Court that legalized abortion. Critics apart, there can be ideas that are worth exploring. It is equally worthwhile, first, to explore for ideas, instead getting stuck in a predictable, plebian approach to societal problems.*

98. Merely on the premise that the offence is heinous and that it lends to the societal volatility of indignation, we are bracing for juvenile recidivism. Retributive approach vis-a-vis juveniles needs to be shunned unless there are exceptional circumstances, involving gross moral turpitude and irredeemable proclivity for the crime. Condemned, any juvenile is going to be a mere numeral in prison for

a lifetime; reformed, he may redeem himself and may become a value addition to the Society. Let no child be condemned unless his fate is foreordained by his own destructive conduct. For this, a single incident not revealing wickedness, human depravity, mental perversity, or moral degeneration may not be enough. Just deserts are more than mere retribution.

99. The Society, or restrictively the aggrieved person, views any problem ex post; it wants a wrong to be righted or remedied to the extent possible. The courts, especially the Courts of Record, view the same problem ex ante. "It involves looking forward and asking what effects the decision about this case will have in the future"[19]. To be more accurate, the courts balance both perspectives. I reckon Section 15 of the Act requires us to balance both the competing perspectives: ex post and ex ante.

[19] [The Legal Analyst, Ward Farnsworth, The University of Chicago Press, Ed. 2007. P. 5]

100. So I conclude that the Board, in the first place, has mechanically relied on the Social Investigation Report and MH Report, without analyzing the older adult's case on its own. Similarly, the Appellate Court has also endorsed the order in appeal, without exercising the powers it has under Section 101. So both fail the legal scrutiny; they have failed to exercise the jurisdiction vested in them."

32. In the judgment quoted here-in-above, Bombay High Court has rightly held that the television, internet and social-media are having disastrous effects on the impressionable minds of the adolescents and resulting in loss of their innocence at a very early and tender age.

33. Law is an evolving concept and has to keep pace with time. This court has no hesitation to hold that the nefarious effects of the visual mediums like television, internet and social-media on adolescents are not being controlled, nor it appears that the government can control the same, to prevent its deleterious effect on the adolescents, due to the uncontrollable nature of technologies involved. The "Nirbhaya case" was an exception and not a general rule and all juveniles cannot be subjected and tried like adult without proper consideration of the overall social and psychological effects on their psyche.

34. In this case the victim and the juvenile both are minors. They continued in consensual physical relationship for about an year and only after the victim became pregnant their relationship was discovered. The revisionist with the help of two adults got her pregnancy aborted by administering medicine. There is nothing on record to indicate that the revisionist is a predator on the prowl and is prone to repeating the offence without any provocation. He never indulged in any such or other offence earlier. Maturity of his mind has not been certified by the psychologist. Merely because he committed a heinous crime he cannot be put to par with an adult when his social exposure was also found to be deficient by the psychologist.

35. In view of above consideration the impugned judgments and orders passed by both the courts below are set aside.

36. Criminal Revision is allowed.

37. The revisionist is directed to be tried as a juvenile by the Juvenile Justice Board in accordance with law.

38. Registrar (compliance) is directed to communicate this order to the Juvenile Justice Board, Kaushambi for necessary compliance within three days.

Order Date :- 24.07.2025

Rohit