

Abdul Mannan and Others

Vs

State of W.B.

Criminal Appeal No. 1743 of 1995

(K. Ramaswamy, B. N. Kirpal, Faizanuddin JJ)

05.12.1995

ORDER

1. Leave granted.
2. This is an appeal against the order dated 11-1-1989 passed by the Calcutta High Court in Criminal Revision No. 31 of 1989. In Sessions Case No. 63-A of 1981 on the file the Additional Sessions Judge, 11 persons including the appellants are facing trial.
3. The appellants herein were charged for various offences including the offence of murder punishable under Section 302, Indian Penal Code. Now it transpires that on the date of the commission of the offence these appellants were under the age of 17 and 18 years. Since they were children under the provisions of the West Bengal Children Act, 1959 (for short "the Act"), they were required to be tried by the Juvenile Court but no such court had been constituted. Subsequently, pending proceeding Juvenile Justices Act, 1986 has come into force and the Act stood repealed. Even under the Act, trial of the juvenile offenders requires to be conducted by the Juvenile Court. Since no court has been constituted even under the Central Act the necessary consequences would be that the Sessions Judge had conduct the trial.
4. Contention was raised in the courts below that the Additional Sessions Judge is not a Sessions Judge and that, therefore, he could not proceed with the trial. The contention was rejected and thus this appeal by special leave against the impugned order dated 11-1-1989. Section 9(1) of the Code of Criminal Procedure, 1973 (Act 21 of 1974) (for short "the Code") enjoins the State Governments to establish a Court of Sessions for every sessions division. It is made clear by sub-section (3) of Section 9 which provides that Additional Sessions Judges may be appointed by the High Court to exercise jurisdiction in a Court of Session. Singular includes plural. Sessions Judge would include Additional Sessions Judge under the Code. Therefore, he gets all the power and the jurisdiction of the Sessions Judge to try the offences enumerated under the Code. The Additional Sessions Judge, therefore, is competent to proceed with the trial of the juvenile offenders. Even though at the relevant time the appellants were juveniles, by passage of time they no longer remained to be juvenile offenders. They are now in mid-thirties.
5. The object of the Juvenile Justice Act is to reform and rehabilitate the juvenile offenders as useful citizens in the society. In the facts and circumstances of the case, the benefit of the Central Act was denied to them due to their own act of keeping the trial pending by protracting litigation kept the case pending trial and in the meanwhile the appellants had crossed the age of the juvenile offenders and became adults. We do not think it is a proper case for our interference as no useful purpose under Central Act would serve.

6. The appeal is accordingly dismissed.