

SUPREME COURT OF INDIA

Amit Das

Vs.

State of Bihar

Review Petn. (Cri.) No. 1290 of 2000

(Dr. A.S.Anand CJI., K.T.Thomas, R.C.Lahoti, N.Santosh Hegde and S. N. Variava JJ.)

28.08.2001

ORDER

1. In an inquiry conducted under Section 32 of the *Juvenile Justice Act, 1986* (hereinafter referred to as 'the 1986 Act') The Trial Court recorded a finding to the effect that petitioner Amit Das was not a juvenile on the date of occurrence. This finding was upheld by the learned Sessions Judge in an appeal filed by petitioner-Amit Das. The High Court also dismissed revision petition filed by the petitioner against that finding. Order of the High Court was put in issue by the petition in SLP (Crl.) 729/2000. In an appeal (Criminal Appeal No. 469/ 2000) arising out of that special leave petition (since reported as *Amit Das v. State of Bihar*¹, dealing with that issue, it was observed :

"24. So far as the finding regarding the age of the appellant is concerned it is based on appreciation of evidence and arrived at after taking into consideration the material available on record and valid reasons having been assigned for it. The finding arrived at by the learned ACJM has been maintained by the Sessions Court in appeal and the High Court in revision. We find no case having been made out for interfering therewith."

2. Thus, this Court also affirmed the concurrent findings regarding the age of the petitioner and that on the date of the offence, the petitioner was not a juvenile within the meaning of the provisions of the 1986 Act.

3. After the judgment in Crl. Appeal No. 469/2000 was delivered by this Court on 9th May, 2000, the petitioner filed a review petition seeking review of that judgment. In the memorandum of review petition, the only issue raised is to the effect that the two Judge Bench deciding *Amit Das v. State of Bihar*, (supra) while holding that crucial date to determine whether an accused is a juvenile or not under the 1986 Act is the date on which the accused first appears in the Court in inquiry proceedings, has overlooked the earlier view of a three Judge Bench in the case of *Umesh Chandra v, State of Rajasthan*², wherein it had been held that crucial date in such cases is the date on which offence was committed and not when the accused first appears before the Court in inquiry proceedings. The correctness of the

finding that Petitioner was not a juvenile (under the 1986 Act) on the basis of the offence, has not been put in issue in the memorandum of the review petition.

4. When the review petition came up for consideration on 19-1-2000, the Division Bench noticed that there appeared to be an apparent conflict of opinion on the question as to whether the date of commission of offence or the date on which the accused first appears in inquiry proceedings is relevant for the purposes of determining whether or not an accused was a juvenile under the 1986 Act. The review petition was, therefore, referred to a larger Bench to resolve the conflict between the two opinions. That is, how, the matter is before us.

5. In view of the findings recorded in an inquiry conducted under Section 32 of the 1986 Act, that on the date of the offence the accused-petitioner was not a juvenile for the purposes of the 1986 Act, which finding has been affirmed right up to this Court, it is of no consequence, insofar as this petition is concerned, as to whether the crucial date for purposes of the 1986 Act is the date of commission of the offence or the date when the accused first appears in the Court in the inquiry proceedings. The reference, therefore, insofar as this petition is concerned, is only of an academic interest and we decline to answer an academic question only.

6. It is settled practice that this Court does not decide matters which are only of academic interest on the facts of a particular case. [See with advantage : *Sanjeev Coke Manufacturing Company v. M/s. Bharat Coking Coal Ltd.*³, *R. S. Nayak v. A. R. Antulay*⁴, and *Dhartipakar Madan Lal Agarwal v. Rajiv Gandhi*⁵.

7. In this view of the matter, we find that the issue referred to the Constitution Bench does not require our consideration in this case. The review petition, which itself has been referred to the Constitution Bench, is accordingly dismissed.

8. We, however, clarify that since learned Senior Counsel appearing for the petitioner had reserved his argument on the applicability of *Juvenile Justice (Care and Protection of Children) Act, 2000*, which repealed the 1986 Act, for raising it in the Trial Court when the order of references was made, we are not expressing any opinion on the question whether the *Juvenile Justice (Care and Protection and Childen), 2000* applies to the facts and circumstances of the instant case or not.

9. The review petition for what has been noticed above is dismissed.

Petition dismissed.

¹(2000) 5 SCC 488

²(1982) 2 SCC 202

³(1983) 1 SCC 147

⁴(1984) 2 SCC 183

⁵1987 Supp.SCC 93