

VIKRAM SINGH
V.
STATE OF HARYANA
Criminal Appeal No. 764 of 2007

MAY 01, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

Juvenile Justice (Care and Protection of Children) Act, 2000 as amended on 22nd August, 2006 – Juvenile Justice (Care and Protection of Children) Rules, 2007 – r. 97(2) – Appellant accused of committing a criminal offence – Convicted and sentenced to life imprisonment – He claimed that he was juvenile on the date of commisiion of offence – Held : Appellant was entitled to benefit under the provisions of the 2000 Act, as amended, and the 2007 Rules – Hence, while confirming the conviction of appellant, direction given for his release considering the peirod of custody already suffered by him.

**CRIMINALAPPELLATE JURISDICTION : Criminal Appeal
No. 764 of 2007**

From the Judgement and Order dated 26.05.2006 of the Hon'ble High Court of States of Punjab & Haryana at Chandigarh in Criminal Appeal No. 364-DB of 1998.

Sushil Kr., Anil Kaushik, Vinay Arora, Deepak Jain, Aditya Kumar, Mary Mirza, Gopal Singh Chauhan, Shiv Prakash Pandey, for the Appellant.

T.V. George, Shinoj K. Narayanan, for the Respondent.

The Judgement of the Court was delivered by

DR. ARIJIT PASAYAT, J.

Heard learned counsel for the parties.

A The controversy lies within a very narrow compass which relates to legality of the proceedings before the learned Sessions Judge, Kurukshetra, in dealing with the present matter. According to the appellant, he was a Juvenile when the occurrence took place on 20/2/1996. The appellant was shown
B to have been arrested on 1/3/1996.

Relying on the certificate issued by the Central Board of Secondary Education it is contended that the appellant was born on 4.5.1980 and on the date of incident he was below 16 years of age. On 5/6/1998, the appellant was convicted for life imprisonment and other terms between 7 and 10 years.
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At the time of conviction the Juvenile Justice Act, 1986 (hereinafter referred to as '1986 Act') was in operation. The 1986 Act was subsequently repealed by Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as '2000 Act'). On 22.8.2006 Section 2 (l) of the Act was amended stating that "Juvenile in conflict with law" means juvenile who is alleged to have committed an offence and has not completed 18 years of age as on the date of commission of such offence. The Juvenile Justice (Care and Protection of Children) Rules 2007 (hereinafter referred to as '2007 Rules') were brought into force on 26th October 2007.
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As per Rule 97(2) all the cases pending which have not received a finality will be dealt with and disposed of in terms of the provisions of the 2000 Act as amended on 22/8/2006 and 2007 Rules. It appears that the High Court judgment is of 26/5/2006 when the Rule 97 (2) as applicable was not in existence as it was brought into force in 2007 (i.e. 26th October, 2007).
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We are of the view that the appellant is entitled to the benefit under the provisions of 2000 Act as amended from 22.8.2006, and 2007 Rules. Therefore while confirming the conviction, considering the period of custody already suffered by the appellant, we direct that he shall be released from custody
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forthwith unless he is required in custody in any other case. A
Normally we would have remitted the matter to be dealt with by
the appropriate Court. But considering the long passage of time
and period of custody, we have passed the present order.

The appeal is allowed to the aforesaid extent.

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B.B.B.

Appeal partly allowed.