



2026:DHC:8299-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 05.08.2026

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CNR No. DLHC010095152004

+ **CRL.A. 297/2004**

VINOD PRAJAPATI @ BHOLA PRAJAPATIAppellant

Through: Mr.Sudarshan Rajan, Mr.Ashish
Kumar Das and Mr.Hitain Bajaj,
Advs.

versus

THE STATE OF NCT OF DELHIRespondent

Through: Mr.Aman Usman, APP with
Mr.Manvendra Yadav, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

NAVIN CHAWLA, J.

1. This appeal has been filed challenging the order dated 19.02.2004 passed by the learned Additional Sessions Judge, Delhi, in Sessions Case No. 125/1997 arising out of FIR No. 1176/1995, Police Station Sultan Puri under Sections 302/460/394/34 of the Indian Penal Code, 1860 (in short, 'IPC'), convicting the appellant herein for offences under Sections 394 and 302 of the IPC.

2. The appeal further challenges the order dated 21.02.2004 passed by the learned Trial Court, sentencing the appellant to 5 years of rigorous imprisonment with a fine of Rs.2,000/- and, in default of



payment of the fine, to further undergo one month of rigorous imprisonment for the offence under Section 394 of the IPC, and imprisonment for life with a fine of Rs.5,000/- and, in default of payment of the fine, to undergo one month of rigorous imprisonment for the offence under Section 302 of the IPC; both sentences to run concurrently.

3. At the outset, we may note that the appellant herein has filed an affidavit dated 23.07.2026, stating that he does not wish to press the appeal on merits as he claims that he was a juvenile on the date of the commission of the alleged offence. This is also one of his grounds urged in this appeal.

4. The claim of the appellant is that, at the time of the alleged offence, he was less than 18 years of age and therefore, entitled to protection under the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the 'JJ Act of 2000'). The appellant, during the pendency of the present appeal, in fact, filed an application, being Crl. Misc. Application No. 8884/2004, wherein he relied upon the Secondary School Examination Mark-Sheet issued on 22.01.2000 by the National Open School [presently known as 'National Institute of Open Schooling, (NIOS)], showing his age on the date of the alleged offence as 17 years 1 month and 27 days. In the application, he further prayed that, if deemed necessary, his age be determined by conducting an Ossification Test.

5. This Court, by its order dated 03.12.2004, while adjudicating on the above said application filed by the appellant, recorded that the appellant could not produce requisite documentary evidence to support



his claim and, therefore, directed for an Ossification Test of the appellant to be conducted to determine his age as on 01.12.1995, the date of the alleged offence.

6. Under the cover of a letter dated 18.02.2005, the Superintendent, Central Jail No. 3, Tihar, forwarded the report of Bone Age Estimation dated 08.02.2005 from the Senior Medical Officer, Central Jail No. 3, which in turn stated that the appellant had been sent to the DDU Hospital for medical examination and the Medical Board, *vide* its report dated 04.02.2005, has informed that on the examination of the appellant by a constituted Board and after conducting physical, radiological and dental examinations on him, the Board has reached the conclusion that the approximate age of the appellant is more than 22 years but less than 25 years at the time of examination, that is, 05.01.2005. As per this report, therefore, the age of the appellant as on the date of the alleged offence would come to approximately 12 years and 11 months (if we take the lower age of 22 years) and 15 years and 11 months (if we take the upper age of 25 years). Either way, the appellant was a minor on the date of the alleged offence.

7. This Court, further, by its order dated 06.05.2026, directed the respondent to verify the Secondary School Examination Mark-Sheet placed on record by the appellant to claim juvenility as on the date of the offence.

8. The respondent has filed a verification report dated 09.07.2026, which, *inter alia*, annexes a communication dated 29.06.2026 from the NIOS, confirming the said document filed by the appellant to be correct. We must herein, however, note that as far as the documents on



the basis of which the age of the appellant had been recorded in the said Mark-Sheet are concerned, it is stated that as per the NIOS norms, they are to be maintained only for a period of 5 years and have accordingly been weeded out.

9. The learned counsel for the appellant submits that the authenticity of the Mark-Sheet placed on record cannot be doubted, inasmuch as the same was obtained when the claim of being a juvenile was governed by the Juvenile Justice Act, 1986 (hereinafter referred to as the 'JJ Act, 1986'). The JJ Act, 1986 defined a '*juvenile*' in Section 2(h) thereof to be a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years. He submits that, therefore, no benefit was accruing to the appellant by giving a false age for his Secondary School Examination Certificate, as it showed the appellant to be more than 16 years of age as on the date of the offence. He submits that it is only with the coming into force of the JJ Act of 2000 and the subsequent amendment and insertion of Section 7A therein by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 with effect from 22.08.2006, enabling a claim of juvenility to be raised at any stage, that the appellant could have gained any benefit under the said Act and claim to be a '*juvenile*' or '*juvenile in conflict with law*', as defined in Section 2(l) of the Act. He submits that, therefore, no doubt can be placed on the genuineness of the age reflected in the Secondary School Examination Certificate referred to hereinabove.

10. He submits that even if the above said Certificate is to be ignored, the age of the appellant on the date of the offence, in terms of



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Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as the '2007 Rules'), has to be determined on the basis of the Ossification Test, which again shows that the appellant was below the age of 18 years as on the date of the alleged offence.

11. Placing reliance on the judgments of the Supreme Court in ***Hari Ram v. State of Rajasthan and Another***, (2009) 13 SCC 211; ***Dharambir v. State (NCT of Delhi) and Another***, (2010) 5 SCC 344; and ***Satya Deo Alias Bhoorey v. State of Uttar Pradesh***, (2020) 10 SCC 555, he submits that it is no longer *res integra* that in view of Section 7A of the JJ Act of 2000, the benefit of juvenility must accrue to the appellant, as he was less than 18 years of age on the date of the alleged offence, even though the offence is claimed to have been committed prior to the coming into force of the JJ Act of 2000.

12. The learned counsel for the appellant further submits, that Section 20 of the JJ Act of 2000 applies to proceedings pending at the stage of trial as well as appeal, and even at the stage where the person is already undergoing the sentence. He submits that the reckoning date for determining juvenility is the date of occurrence of the alleged offence. In support of his submission, he places reliance on ***Charanjeet Singh v. State of NCT of Delhi***, 2004 SCC Online Del 783, ***Pratap Singh v. State of Jharkhand and Another***, 2005 3 SCC 551 and ***Ravinder Kumar v. State***, 2007 SCC Online Del 1318.

13. On the other hand, Mr. Usman, the learned APP, submits that the appellant cannot rely on the School Certificate, inasmuch as it had been obtained post his conviction by the Impugned Judgment. He



submits that this itself casts a doubt on the genuineness of the age reflected in the said certificate. He submits that no document in support of the age reflected in the School Certificate, has been produced by the appellant in spite of opportunities granted by this Court. The age reflected in the said school certificate is, therefore, without any basis and cannot be relied upon by the appellant.

14. As far as the Ossification Test report is concerned, he submits that this Court should not accept the same and, instead, should direct a further inquiry to be made by the Juvenile Justice Board constituted under the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'JJ Act of 2015') on the appellant's claim of juvenility, and in case the appellant is found to be a juvenile on the date of the offence, further proceedings be directed to be undertaken by the said Board.

15. The learned APP further submits that the 18-year age limit was introduced by the JJ Act of 2000 and given retrospective effect by the 2006 amendment. He submits that this benefit cannot be extended under the JJ Act of 2015. He further submits that although the Act is beneficial in nature, it cannot be interpreted to confer a substantive right which the legislature has not expressly preserved.

16. The learned APP submits that the plea of juvenility cannot, by itself, invalidate the conviction recorded by the learned Trial Court or result in an automatic acquittal. He submits that the conviction must still be examined on its merits, independent of the plea of juvenility. In support of his submission, he places reliance on ***Hari Ram*** (supra) ***Dharambir*** (supra) and ***Jitendra Singh @ Babboo Singh v. State of***



U.P., (2013) 11 SCC 193.

17. He further submits that merely because the appellant is not pressing the challenge to his conviction, this Court is not absolved of its duty to examine the correctness of the conviction in exercise of its appellate jurisdiction. In support, he relies upon **Shyam Deo Pandey v. State of Bihar** (1971) 1 SCC 855, **Bani Singh v. State of U.P.** (1996) 4 SCC 720, and a judgment of Kerela High Court in **Samuel Philipose v. Koshy Thomas**, 2009(4) KLT 360 (Ker.).

18. We have considered the submissions made by the learned counsels for the parties.

19. As far as the applicability of the JJ Act of 2000 to cases where the date of the alleged offence is prior to the coming into force of the said Act, and even where the accused stands convicted, the law is no longer *res integra*. In **Hari Ram** (supra), the Supreme Court, taking note of the substitution of Section 2(l) defining the term '*juvenile in conflict with law*', the insertion of Section 7A in the JJ Act of 2000, the introduction of Rule 12 into the 2007 Rules, and the amendment of Section 20 of the JJ Act of 2000, held that the relevant date for determining the applicability of the JJ Act of 2000, as far as the age of the accused is concerned, is the date of the alleged offence and not the date of Trial. It was further held that the JJ Act of 2000 would be applicable even to proceedings of any Court/Authority initiated when the JJ Act of 1986 was in force at the time of the alleged offence. It further held that even where a person had ceased to be juvenile on or before 01.04.2001, when the JJ Act of 2000 came into force, the provisions of the JJ Act of 2000 would apply as if the said provisions



had been in force for all purposes and for all material times when the alleged offence was committed. We quote from the judgment as under:-

“59. The law as now crystallised on a conjoint reading of Sections 2(k), 2(l), 7-A, 20 and 49 read with Rules 12 and 98, places beyond all doubt that all persons who were below the age of 18 years on the date of commission of the offence even prior to 1-4-2001, would be treated as juveniles, even if the claim of juvenility was raised after they had attained the age of 18 years on or before the date of commencement of the Act and were undergoing sentence upon being convicted.

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68. Accordingly, a juvenile who had not completed eighteen years on the date of commission of the offence was also entitled to the benefits of the Juvenile Justice Act, 2000, as if the provisions of Section 2(k) had always been in existence even during the operation of the 1986 Act.

69. The said position was re-emphasised by virtue of the amendments introduced in Section 20 of the 2000 Act, whereby the proviso and Explanation were added to Section 20, which made it even more explicit that in all pending cases, including trial, revision, appeal and any other criminal proceedings in respect of a juvenile in conflict with law, the determination of juvenility of such a juvenile would be in terms of clause (l) of Section 2 of the 2000 Act, and the provisions of the Act would apply as if the said provisions had been in force when the alleged offence was committed.

70. In the instant case, there is no controversy that the appellant was about sixteen years of age on the date of commission of the alleged offence and had not completed eighteen years of age. In view of Sections 2(k), 2(l) and 7-A read with Section 20 of the said Act, the provisions thereof



would apply to the appellant's case and on the date of the alleged incident it has to be held that he was a juvenile.”

20. In ***Dharambir*** (supra), the Supreme Court reiterated the above position in law as under:-

“14. Proviso to sub-section (1) of Section 7-A contemplates that a claim of juvenility can be raised before any court and has to be recognised at any stage even after disposal of the case and such claim is required to be determined in terms of the provisions contained in the Act of 2000 and the Rules framed thereunder, even if the juvenile has ceased to be so on or before the date of the commencement of the Act of 2000. The effect of the proviso is that a juvenile who had not completed eighteen years of age on the date of commission of the offence would also be entitled to the benefit of the Act of 2000 as if the provisions of Section 2(k) of the said Act, which defines “juvenile” or “child” to mean a person who has not completed eighteenth year of age, had always been in existence even during the operation of the 1986 Act.

15. It is, thus, manifest from a conjoint reading of Sections 2(k), 2(l), 7-A, 20 and 49 of the Act of 2000, read with Rules 12 and 98 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 that all persons who were below the age of eighteen years on the date of commission of the offence even prior to 1-4-2001 would be treated as juveniles even if the claim of juvenility is raised after they have attained the age of eighteen years on or before the date of the commencement of the Act of 2000 and were undergoing sentences upon being convicted. In the view we have taken, we are fortified by the dictum of this Court in a recent decision in Hari Ram v. State of Rajasthan.”



21. As far as the 2015 Act is concerned, the Supreme Court in **Satya Deo Alias Bhoorey** (supra), took note of Section 25 thereof, which we reproduce hereinunder:-

“25. Special provision in respect of pending cases.—Notwithstanding anything contained in this Act, all proceedings in respect of a child alleged or found to be in conflict with law pending before any Board or court on the date of commencement of this Act, shall be continued in that Board or court as if this Act had not been enacted.”

22. Explaining the effect of the above provision and Section 6 of the General Clauses Act, 1897, the Supreme Court in **Satya Deo Alias Bhoorey** (supra) held as under:-

“26. Consequently, in light of Section 6 of the General Clauses Act read with Section 25 of the 2015 Act, an accused cannot be denied his right to be treated as a juvenile when he was less than eighteen years of age at the time of commission of the offence, a right which he acquired and has fructified under the 2000 Act, even if the offence was committed prior to enforcement of the 2000 Act on 1-4-2001. In terms of Section 25 of the 2015 Act, the 2000 Act would continue to apply and govern the proceedings which were pending when the 2015 Act was enforced. [In the present case, we are not required to examine and decide the question whether the 2000 Act or the 2015 Act would apply when the offence was committed before the enactment of the 2015 Act but the charge-sheet was filed after enactment of the 2015 Act. The answer would require examination of clause (1) of Article 20 of the Constitution and several other aspects as the 2015 Act provide an entirely different regime in respect of children in conflict with law and the procedure to be followed in such cases. These aspects and issues have not been argued before us.]”



23. The above judgment was followed by the Supreme Court in ***Pawan Kumar v. State of Uttar Pradesh & Ors.***, (2023) 15 SCC 683.

24. Therefore, the JJ Act of 2000 shall continue to apply even to the cases where the offence was committed before the enactment of the JJ Act of 2015 and to the proceedings, including appeals, which were pending when the JJ Act of 2015 came into force, like in the present case.

25. From the above, it can be safely held that, in case we agree with the appellant that his age was less than 18 years as on the date of the alleged offence, he would be entitled to protection under the JJ Act of 2000 and the sentence imposed upon him would be liable to be set aside.

26. We may now consider whether the appellant was below 18 years of age as on the date of alleged offence, that is, 01.12.1995.

27. In ***Abuzar Hossain @ Gulam Hossain v. State of West Bengal*** (2012) 10 SCC 489, the Supreme Court laid down the guidelines and standards for evaluating the case of juvenility raised for the first time before the appellate Court or Supreme Court. The same are reproduced as under:-

“39. Now, we summarise the position which is as under:

39.1. A claim of juvenility may be raised at any stage even after the final disposal of the case. It may be raised for the first time before this Court as well after the final disposal of the case. The delay in raising the claim of juvenility cannot be a ground for rejection of such claim. The claim of juvenility can be raised in appeal even if not pressed before the



trial court and can be raised for the first time before this Court though not pressed before the trial court and in the appeal court.

39.2. *For making a claim with regard to juvenility after conviction, the claimant must produce some material which may prima facie satisfy the court that an inquiry into the claim of juvenility is necessary. Initial burden has to be discharged by the person who claims juvenility.*

39.3. *As to what materials would prima facie satisfy the court and/or are sufficient for discharging the initial burden cannot be catalogued nor can it be laid down as to what weight should be given to a specific piece of evidence which may be sufficient to raise presumption of juvenility but the documents referred to in Rules 12(3)(a)(i) to (iii) shall definitely be sufficient for prima facie satisfaction of the court about the age of the delinquent necessitating further enquiry under Rule 12. The statement recorded under Section 313 of the Code is too tentative and may not by itself be sufficient ordinarily to justify or reject the claim of juvenility. The credibility and/or acceptability of the documents like the school leaving certificate or the voters' list, etc. obtained after conviction would depend on the facts and circumstances of each case and no hard-and-fast rule can be prescribed that they must be prima facie accepted or rejected. In Akbar Sheikh [(2009) 7 SCC 415 : (2009) 3 SCC (Cri) 431] and Pawan [(2009) 15 SCC 259 : (2010) 2 SCC (Cri) 522] these documents were not found prima facie credible while in Jitendra Singh [(2010) 13 SCC 523 : (2011) 1 SCC (Cri) 857] the documents viz. school leaving certificate, marksheet and the medical report were treated sufficient for directing an inquiry and verification of the appellant's age. If such documents prima facie inspire confidence of the court, the court may act upon such documents for the purposes of Section 7-A and order an enquiry for determination of the age of the delinquent.*



39.4. An affidavit of the claimant or any of the parents or a sibling or a relative in support of the claim of juvenility raised for the first time in appeal or revision or before this Court during the pendency of the matter or after disposal of the case shall not be sufficient justifying an enquiry to determine the age of such person unless the circumstances of the case are so glaring that satisfy the judicial conscience of the court to order an enquiry into determination of the age of the delinquent.

39.5. The court where the plea of juvenility is raised for the first time should always be guided by the objectives of the 2000 Act and be alive to the position that the beneficent and salutary provisions contained in the 2000 Act are not defeated by the hypertechnical approach and the persons who are entitled to get benefits of the 2000 Act get such benefits. The courts should not be unnecessarily influenced by any general impression that in schools the parents/guardians understate the age of their wards by one or two years for future benefits or that age determination by medical examination is not very precise. The matter should be considered prima facie on the touchstone of preponderance of probability.

39.6. Claim of juvenility lacking in credibility or frivolous claim of juvenility or patently absurd or inherently improbable claim of juvenility must be rejected by the court at the threshold whenever raised.”

28. To determine the age of the appellant, we need to take note of Rule 12 of the 2007 Rules, which prescribes the manner in which age is to be determined. The same is reproduced as under: -

“12. Procedure to be followed in determination of Age.—(1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be, the Committee referred to in Rule 19 of these



rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.

(2) The court or the Board, or as the case may be, the Committee shall decide the juvenility or otherwise of the juvenile or the child or, as the case may be, the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(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.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or, as the case may be, the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of Section 7-A, Section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed of cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub-rule (3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law.”

29. Sub-Rule 3(a) of Rule 12 prescribes a hierarchy of documents which may be taken as evidence for an age determination inquiry; the first being the matriculation certificate or equivalent certificate, if available; the second being the date of birth certificate from the school (other than a play school) first attended; the third being the birth certificate given by a corporation or a municipal authority or a panchayat; and if any of these three are not available, then, in terms of Sub-Rule 3(b) of Rule 12, the medical opinion of a duly constituted



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Medical Board be obtained. Reference in this regard may be placed to the judgment of the Supreme Court in ***Vinod Katara v. State of Uttar Pradesh***, (2023) 15 SCC 210 wherein the said hierarchy has been duly recognized, with the matriculation or equivalent certificate being accorded the highest priority.

30. In the present case, we have the Matriculation/Secondary School Examination Certificate of the appellant issued by the NIOS, reflecting his date of birth as 04.10.1978. The said date of birth would make him 17 years, 1 month and 27 days old on the date of alleged offence and therefore, clearly shows that the appellant had not attained the age of 18 years as on the said date. The said certificate has also been verified by the respondent/State and found to be correct.

31. However, the learned APP strongly urges that as the said document was obtained by the appellant after his conviction and is not supported by any other documents that he could produce, we should not rely upon the same. We are not inclined to accept this submission of the respondent. As rightly contended by the learned counsel for the appellant, no benefit would have accrued to the appellant by giving a wrong date of birth for obtaining the above certificate as, on the date of the said certificate, his claim of juvenility would have been governed by the 1986 Act, which defined a 'juvenile' to be a boy who had not attained the age of 16 years. The certificate shows that the appellant had already attained the age of 16 years on the date of the alleged offence. If he were to give a wrong date of birth, he would have ensured that the same would have reflected an age below 16 years and not just above 16 years on the date of the offence.



32. Be that as it may, even if we were to ignore the said certificate, pursuant to an order dated 03.12.2004 passed by this Court, the appellant underwent a medical examination by a Medical Board constituted at DDU Hospital. The said hospital had given a report which would show the age of the appellant to be 12 years and 11 months, in case we take his lower age as on the date of the offence, and 15 years and 11 months, if we take the upper age on the date of the alleged offence. Either way, he was less than 18 years on the date of the alleged offence.

33. It is also settled law that the standard of proof for the determination of age is the degree of probability and not proof beyond reasonable doubt. In a case involving a claim of juvenility where two views are possible, the Court has to take a liberal approach. Reference in this regard may be had to the judgments in **Vinod Katara** (supra) and **Pawan Kumar** (supra).

34. The submission of the learned APP that we should now remand the matter to the Board to conduct an inquiry for determining the age of the appellant as on the date of the offence, also does not impress us. The said report has been given way back on 18.02.2005. For all this period, no dispute has been raised on the same by the respondent and moreover, the said Ossification Test was conducted by the Jail Authorities only.

35. Given the above circumstances, we have no doubt that the appellant was a juvenile as on the date of the alleged offence.

36. This now brings us to the further course of action to be adopted by this Court.



37. In **Karan Alias Fatiya v. State of Madhya Pradesh**, (2023) 5 SCC 504, the issue of what relief the appellant can be granted in view of the fact that he has been held to be a juvenile on the date of the offence by the Appellate Court, was considered in detail. The Supreme Court, taking note of its earlier judgments in **Jitendra Singh @ Babboo Singh** (supra) and **Ashok Kumar Mehra & Anr. v. The State of Punjab etc.**, (2019) 6 SCC 132, held that only on the finding of such juvenility, the conviction of the appellant cannot be set aside and it is only the sentence awarded by the Court that would become ineffective. The Court, however, further taking note of the fact that the appellant therein was more than 20 years of age and had undergone more than 5 years of incarceration, held that there will be no requirement of sending him to the Juvenile Justice Board and instead ordered his release.

38. Keeping in view the above, and even though the appellant has filed an affidavit that he does not press his appeal on merits, we have considered the case of the prosecution against him on merits as well.

39. The case of the prosecution against the appellant is that on 01.12.1995, the husband and the children of the deceased-Lado Devi had gone to attend a marriage in Punjabi Bagh, leaving Smt. Lado Devi at the house along with the appellant, who was working as a domestic servant. At about 11:15 P.M., PW-1/Narinder Singh (son of the deceased) and his family returned to the house and found the entrance door of the house open and the appellant missing. The dead body of the deceased was found in the bedroom and blood-stained clothes of the appellant were found lying in the bathroom. A



motorcycle, clothes, silver coins, jewellery and cash upto amount of Rs.1,50,000/- were also found to be missing. As there was no eye witness to the occurrence, the case of the prosecution rested upon circumstantial evidence.

40. The learned Trial Court, on the basis of testimonies of PW-1/*Narinder Singh*, PW-9/*Bhagat Raj* (other son of the deceased), PW-11/*Ram Chander Solanki* (another domestic servant working in the house of the deceased) and PW-13/*Randhir Singh* (husband of the deceased), held that the prosecution had been able to prove that the appellant was working as a domestic servant in the house of the deceased and was present on the fateful day of the alleged offence.

41. The learned Trial Court also found that though the appellant had tried to set up a case in the cross-examination of witnesses that his employment had been terminated prior to the date of the incident and he was working somewhere in Malviya Nagar, the appellant led no evidence in support of such case.

42. The learned Trial Court further relied upon the circumstance that the appellant was subsequently found working under the name of “*Bhola Prajapati*”. This circumstance is supported by the testimony of PW-7/*V.K. Mittal* and PW-8/*Ved Khurana*.

43. The learned Trial Court further found that the prosecution had been able to prove that blood-stained clothes of the appellant and a pair of chappal belonging to the appellant were found in the bathroom.

44. The above circumstances clearly showed the complete chain of circumstances against the appellant. The learned Trial Court thus summarized such circumstantial evidence in its order, which we



reproduce hereinunder:

“147. The following circumstances have been proved by the prosecution against the accused Vinod Prajapati beyond reasonable doubt:

(a) Accused Vinod Prajapati was in the employment of the complainant on the fateful day i.e. 1-12-95.

(b) Vinod Prajapati and deceased Lado Devi were left behind in the house when other family members went to attend the marriage.

(c) When Narender Singh son of the deceased came to the house at about 11:15 P.M. after attending the marriage he found the door of the house open, accused Vinod Prajapati missing and Smt. Lado Devi dead in the bed room.

(d) Gold jewelery, silver coins and cash of Rs. 1,50,000/- was found missing.

(e) The blood stained clothes of accused Vinod Prajapati were found lying in the bath room.

(f) Accused-Vinod Prajapati was working at different places under the assumed name of Bhola.”

45. We see no reason to disagree with the above findings of the learned Trial Court. The conviction of the appellant is accordingly sustained and upheld.

46. On the issue of whether the appellant is to be now remanded to the Board, as noted hereinabove, the alleged offence was committed on 01.12.1995. The appellant stood convicted on 19.02.2004 and, as per the Nominal Roll dated 20.07.2004, had undergone an imprisonment of 7 years, 8 months, and 15 days and earned a remission of 20 days as on 19.07.2004. His sentence was suspended by this Court *vide* its order dated 15.04.2005. Given the said facts and for the reason that the appellant was a juvenile as on the date of the alleged offence; taking note of the present age of the appellant; the fact



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that the appellant has also filed an affidavit stating that he does not intend to challenge his conviction; and in view of Section 15(1) of the JJ Act of 2000, whereunder the maximum period for which a juvenile can be detained is three years; as also the course followed by the Supreme Court in **Pawan Kumar** (supra) and **Karan Alias Fatiya** (supra), we are of the opinion that the interest of justice will be served by sustaining the conviction of the appellant, however, quashing the sentence awarded to him and directing his release, if not required in any other case.

47. The appeal partially succeeds in the above terms.

48. The bail bonds and the surety furnished by the appellant are hereby discharged.

49. A copy of this Judgment be communicated to the learned Trial Court as also the concerned Jail Superintendent for necessary compliance.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

SEPTEMBER 25, 2026/rv/sg/pb