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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

ON THE 25th OF OCTOBER, 2024CRIMINAL REVISION No. 4922 of 2024*MUBARAK KHAN**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Piyush Bhatnagar - Advocate for the applicant.

Shri S.K. Shrivastava - Government Advocate for the State.

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ORDER

Applicant has filed this criminal revision under section 102 of Juvenile Justice (Care & Protection of Children) Act, 2015 against the order dated 02.07.2024 (Annexure-P/2) passed by the Children Court, Shahdol, District-Shahdol (MP) in SCATR No.66/2022.

2. Applicant has filed an application before the trial Court that applicant was minor at the time of incident and was less than 18 years, therefore, he ought to have been tried by Juvenile Justice Board and not by Children Court. Application filed by applicant was dismissed by the trial Court vide impugned dated 02.07.2024.

3. Learned counsel appearing for applicant has relied upon the Commission for Protection of Child Rights Act, 2005. It is submitted that as per Chapter-V, Section 25 of the said Act, Children's Court has been constituted for speedy trial of offences against children or of violation of child rights. It is submitted that Children's Court will try offence where



victims are children but not in cases where offence is said to have been committed by juvenile. In view of same, order passed by trial Court is defective and same may be set aside.

4. Learned Government Advocate appearing for the State submitted that no error can be found in the order passed by the trial Court.

5. Heard the counsel for the parties.

6. Learned counsel appearing for the applicant is unable to understand the import of Children's Court. Children' Court has been constituted under Section 25 of the Commission for Protection of Child Rights Act, 2005. In said Section, it has been mentioned that Children's Court constituted for purpose of speedy trial of offence against children or of violation of child rights. At first glance of said Section, Children's Court appears to be Court which are trying the cases where child rights has been violated and victims are children. But, Section 25 is to be read along with Juvenile Justice (Care and Protection of Children) Act, 2015. In Section 2(20) of said Act, Children's Court has been defined. In said Section, it has been mentioned that Children' Court means a Court established under the Commission for Protection of Child Rights Act, 2005 or Special Court under the Protection of Children from Sexual Offences Act, 2012. In Sections 15 and 18 of the Juvenile Justice (Care and Protection of Children) Act, 2015, it is laid down that Juvenile Justice Board will carry out an inquiry whether child in conflict with law or not. Juvenile Justice Board will also consider the facts and circumstances of the case to determine the fact whether offence committed by juvenile is of heinous nature and if he is between 16-18 years then



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whether he is to be tried as an Adult. If Juvenile Justice Board comes to a conclusion that a juvenile is between 16-18 years and he has committed a heinous offence then his case is to be transferred to Children's Court for trial.

7. In this criminal revision, case of applicant has been transferred to Children's Court after inquiry by Juvenile Justice Board, therefore, no error has been committed by Court in dismissing the application.

8. Criminal Revision is *dismissed*.

(VISHAL DHAGAT)
JUDGE

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