

JUVENILE JUSTICE ACT WITH REFERENCE To *State through Reference Vs Ram Singh & Ors. on 13 March, 2014*

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Abstract

The Juvenile Justice Act 2000 was established to enact principles for administering justice to a juvenile or the child in comparison to criminal justice system as applicable to adults. This Act aims to consolidate the law relating to juveniles in conflict with law, children in need of care and protection by providing for proper care and rehabilitating the child.. This Act was stipulated in consonance with Article 15, 39, 45 and 47 of the Indian Constitution. The Act was enacted to bring the juvenile law in conformity with the United Convention on the Rights of the Child. **Juvenile Justice Act was enacted with an aim to provide care, protection, minutiae and rehabilitation of neglected or runaway juveniles in the year 1986. According to Section 2(a) of the Act specified the term ‘juvenile’ ways as a “boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years”.**

The Juvenile Justice Amendment Act 2015, treats all the children elevated 18 years equally, except that those in the age group of 16-18 can be tried as adults if they commit a heinous crime. Though International law is really a law, it is binding in nature, it is a weak law due to lack of sanction. Further the Juvenile Justice amendment Act 2015 was made in accordance with the Constitution. The amended

Act reduced the age of child to be dealt with the Juvenile Justice board because of increasing in crimes of Juveniles from the age of 16 to 18 years of age.

Keywords: Juvenile, Act, amendment, age, adult

Introduction

The Juvenile Justice Act 2000 was established to enact principles for administering justice to a juvenile or the child in comparison to criminal justice system as applicable to adults. This Act aims to consolidate the law relating to juveniles in conflict with law, children in need of care and protection by providing for proper care and rehabilitating the child.. This Act was stipulated in consonance with Article 15, 39, 45 and 47 of the Indian Constitution. The Act was enacted to bring the juvenile law in conformity with the United Convention on the Rights of the Child.[2]

According to Article 1 of the United Convention on the rights of child, a child is a person below the age of 18. India is a signatory to the UNCRC which is not in conformity with the Convention which treats every child below the age of 18 years in the same manner and not try them as adults. But according to the amendment act child above 16 years of age can be tried as adults if they commit heinous offences such as rape and murder. Thus the study aims to analyse the new amendment made to the Juvenile Justice Act in the year 2015.

Aim Of The Study

1. To study the object of Juvenile Justice Act
2. To analyse why the amendment was made in Juvenile Justice Act, 2015.
3. To compare Juvenile Delinquency in other countries.
4. To analyse the why child between 16 to 18 years were tried as an adult.
5. To study the age of child in UNCRC and International Convention.

Hypothesis

H₁: The Juvenile Justice amended Act decreased the age of child for heinous crimes against the International Convention.

H_a: Increase in Juvenile crimes is the reason for decreasing the age of Juvenile.

Materials And Methods

This paper “**A Case Study On Juvenile Justice Act With Reference To *State Through Reference Vs Ram Singh & Ors. On 13 March, 2014***” is based on Doctrinal Research and not a Non-doctrinal research. This study is collected from national and international journals, books and publication from various websites which gives importance to Juvenile Justice Act and its amendment in the year 2015.

FACTS OF THE CASE: *State Through Reference vs Ram Singh & Ors. on 13 March, 2014*

On 2012 accused Ram Singh, Mukesh, Akshay or Thakur, Pawan or Kalu, Vinay and the JCL had dinner at the Jhuggi of accused Ram Singh. Thereafter, the accused persons conspired to take bus bearing No. DL-1CP-0149, which was being habitually driven by Ram Singh as an employee of Yadav Travels and which was in his custody on the date of the incident, and pick up passengers who they would rob and also pick up a woman passenger to satiate their sexual appetite.

The complainant and the prosecutrix had seen a movie at PVR Select City Mall. [3]At Munirka Bus Stand, they boarded the bus in which the crime took place. The accused persons took Rs. 10/- each as fare from both the victims. A few minutes after boarding the bus, they switched off the lights of the bus and three of the accused persons, namely, Ram Singh, Akshay Kumar and JCL started misbehaving with the complainant asking him why he was with the girl. Thereupon, an altercation took place and the three of the accused persons then started to slap and beat up the complainant, who retaliated. Accused Ram Singh, Akshay or Thakur and the JCL then took the girl to the rear of the bus, beat her up and raped her one by one. During this time, accused Pawan or Kalu and Vinay were holding the complainant and had pinned him down, and Mukesh was driving the bus. Thereafter, accused Ram Singh, Akshay and the JCL held the complainant while Pawan or Kalu and Vinay raped the prosecutrix. Finally, accused Akshay or Thakur took over the bus for a while and during this time accused Mukesh who was driving the bus came and raped the girl.

The accused persons with an intention to kill the prosecutrix and to ensure that their identities remain concealed forever repeatedly inserted the iron rods and their hands into her vagina as well as rectum pulling out the internal organs. The intention to kill the victims is further clear from the fact that the crime committed the accused persons attempted to throw the victims from the back door of the bus but finding it to be jammed, threw the victims from the front door of the moving bus, and thereafter tried to run them over. The prosecutrix was saved from the wheels of the bus on account of the fact that the complainant was able to pull her away in time. The accused persons attempted to destroy all the evidence of the

incident. They first cleaned the bus with the clothes of both the victims and then washed the bus with water and thereafter burnt the clothes of the victims.

This Court has consistently held that only in those exceptional cases where the crime is so brutal, diabolical and revolting so as to shock the collective conscience of the community, would it be appropriate to award death sentence. So the trial Court awarded death sentence to the four accused. Death Sentence made by the trial court is accepted and the death sentence awarded to accused Mukesh, Akshay or Thakur, Pawan or Kalu, and Vinay is affirmed. The Criminal appeal filed by them was dismissed. The Apex Court also confirmed the death penalty of all the accused. In this case, the other co-accused, who was a juvenile has been awarded a mere 3 years of remand as per Juvenile Justice Act, 2000.

Juvenile Justice Act 2000

The Statement of Objects and Reasons of the Juvenile Justice (Care and Protection of Children) Act, 2000 provides that a review of the working of the Juvenile Act, 1986 would indicate that much greater sustenance is required to be given to children in mismatch with law or those in need of superintendency and protection.

The justice system as misogynist for adults is not considered suitable for stuff unromantic to a juvenile or the child. It is moreover necessary that the juvenile justice system must be hands wieldy to a juvenile or the child or anyone on their behalf including the police, voluntary organizations, social workers, or parents and guardians, throughout the country.

There is moreover an urgent need for creating unobjectionable infrastructure necessary for the implementation of the proposed legislation with a larger involvement of informal systems specially the family, the voluntary organizations and the community.

In this context the Juvenile Justice (Care and Protection of Children) Act, 2000 repealed the existing Juvenile Justice Act, 1986 with a view to unzip the pursuit objects:

- (i) To lay lanugo the vital principles for overseeing justice to a juvenile or the child in the Act;
- (ii) To make the juvenile justice system meant for a juvenile or the child increasingly well-pleased of the developmental needs in comparison to criminal justice system as workable to adults.[4]

The Juvenile Justice (Care and Protection of children) Act, 2000 came into force and it repealed the Juvenile Justice Act, 1986. The Act consists of 73 sections and 5 chapters. The Act is reformative and liberal and confined to the welfare of the children including the Juvenile Delinquents. The Act has divided the Juvenile and children into two categories. They are

1. Juvenile in Conflict with Law
2. Child in need of care and protection

Determination of age of child under the Juvenile Justice Act.

Juvenile Justice Act was enacted with an aim to provide care, protection, maintenance and rehabilitation of neglected or runaway juveniles in the year 1986. According to Section 2(a) of the Act specified the term 'juvenile' as a "boy who has not attained the age of 16 years and a girl who has not attained the age of 18 years".

Later on the Parliament enacted the Juvenile Justice (Care and Protection) Act, 2000 which increased the age of child to 18 years for both girl and boy. The Juvenile Justice (Care and Protection) Act, 2000 provides protection to the child who is less than 18 Years of age.[5]

Then the Juvenile Justice Act, 2015 came into force.[6] The Juvenile Justice Amendment Act 2015, treats all the children elevated 18 years equally, except that those in the age group of 16-18 can be tried as adults if they commit a heinous crime.

Changes in the Juvenile Justice Act 2015 are:

The child, who was a short of few months 18 years of age, on December 16, 2012, was released from the correctional home, which generated widespread protests across the country.[7] The juvenile in the case was tried by the Juvenile Justice Board, was found guilty and served three years in a remand home. He was released in 2015.[8] The maximum punishment under the Act is three years.

Six days after the incident, a judicial committee headed by former Chief Justice of India JS Verma was constituted by the central government to amend laws that dealt with rape and to provide punishment to such crimes. The committee received 80,000 suggestions from many citizens including jurists, lawyers, NGOs and women's groups and submitted a report in 29 days for amendments to rape laws. Some experts felt that Juvenile Justice Act of 2000 needed to be amended to include punitive approaches in the existing Juvenile Justice Law, which so far is purely rehabilitative and reformatory.[9]

In *Sheela Barse and Anr. v. Union of India*, the Supreme Court held that the district Judges should nominate the Chief Judicial Magistrate or any other Judicial Magistrate to visit the

respective jails within the jurisdiction and should determine how many children below 16 years of age were limited and what were the charges against them.

Firstly, the minor who is an accused of age increasingly than 16 years of age, should present before the superior of the Juvenile Justice Board[10] and then the Board should decide whether to send the Juvenile for trial as an adult or to send an accused to the rehabilitation centre. This method is judged on the mental and physical worthiness of the child.

Secondly, the act of juvenile justice treats a minor of age sixteen-eighteen years as an sultana if he has single-minded any heinous treason in a mismatch of the law. Minor who have single-minded a serious offence may be tried as an adult only if he is apprehended without the age of twenty-one years.[11]

Juvenile crimes in India

Among juveniles conjointly there's a selected trend that juveniles between the age of sixteen to eighteen years of age found to be additional concerned in wicked criminal acts in keeping with the view of National Crime Records Bureau, the information of 2013 shows that of the 43,506[12] crimes registered against minors underneath the Indian Penal code (IPC) and therefore the Special Local Law (SLL) by juveniles, 28,830[13] had been committed by those between the ages of 16 to 18 years of age. The statistics shows that the amount of juveniles found to be in conflict with law under the IPC and the SLL has increased to 13.6% and 2.5% severally in 2013, compared to the report in the year 2012.[14] The number steadily rose to 29,49,400 in 2015.[15]

Constitutional validity of the Act

A petition has been filed in the Supreme Magistrate challenging the ramble validity of the new law passed by Parliament permitting suspects weather-beaten 16 years of age and whilom to be tried as adults if they commit heinous offences such as rape and murder. The petition was filed by Tahseen Poonawalla which contends that the Juvenile Justice (Care and Protection of Children) Act, 2015 is unreasonable and in violation of the fundamental right of right to equality enshrined in Article 14 of the Constitution. The petition sought the magistrate to judicially review Section 15 of the 2015 Act[16] which provides an option for a juvenile offender weather-

beaten whilom 16 to be tried as an adult if the Juvenile Justice Board gives its consent on a preliminary inquiry.

It said the Act focussed on punishment of juveniles rather than the stated ramble objective of all juvenile laws, which is superintendence and protection. The statute remoter violates the letter and spirit of the U.N. Institute on the Rights of the Child. Article 37 (a) obliges all the member countries to prohibit as well as eliminate corporal punishment, including any other form of punishment that is unforgiving and degrading in nature on children unelevated 18 years. The amended act (Juvenile Justice (Care and Protection of Children) Act, 2015) proposes the trail of juveniles in the age group of 16 to 18 years, who are involved in horrifying crimes and offences. India ratified the institute in the year 1992. It made new amendments to the Justice Juvenile (care and Protection) Act, 2015 and it is contravening the part of UN Institute by not treating all the children equally as mandated, under the age of 18. Thus the amended act stands in well-constructed violation to the UN Institute on Child Rights. The Supreme Court refused to entertain a PIL which challenged the validity of the Juvenile Justice (care and protection of children) Act 2015 saw it cannot be a subject matter of a public interest litigation and can only be admitted only if an aggrieved comes before the Court.

A Glimpse of Juvenile Law In Other Countries

In U.S.A age to determine juvenility varies from state to state, in most of the states it is 18 years but in few it is 17 years and 16 years respectively. Many states permit execution of juvenile of 16 years for murder as an sultana and could be tried by criminal courts for prosecution and punishment as adults as per the gravity of the so-called offence. Till now many juvenile offenders have been executed under wanted punishment but in 2005 Supreme Magistrate of U.S.A in the specimen of Roper v. Simmons¹, held that it is unconstitutional to impose wanted punishment for crimes single-minded while under the age of 18.[17]

In U.K child between 10 to 18 years becomes criminally responsible for his whoopee and be tried by the Youth Magistrate and could be tried in an sultana magistrate as per the gravity of the offence committed. In USA and UK Juvenile can be tried as an adult in sessions court.[18]

In France no criminal tuition can be brought versus a child up to the age of ten years; and for child between ten to thirteen years of age, only educational penalties such as placing in a specialized Centre or home are to be given, while between thirteen to sixteen years of age,

minors will get only half of the sultana sentence. Lastly, between sixteen to eighteen years of age, person would be remanded to Criminal Magistrate and plea of juvenility can be set aside. The basic rule which is followed by most of the countries legislature is that the plea of juvenility would be set aside and he would be tried in a criminal court if the crime committed by the minor is a heinous one such as murder, rape etc.

Juvenile Delinquency

Juvenile can be specified as a child who has not attained a 18 years of age[19] at which he, like an adult person under the law of the land, can be held liable for his criminal acts. Misconduct is a kind of abnormality. When an individual deviates from the undertow of normal social life his behaviour is tabbed 'Delinquent'. When a juvenile, unelevated an age specified under a statute exhibits behaviour which may prove to be dangerous to society and / or for him, he may be tabbed a Juvenile delinquent. Juvenile delinquents are those offenders including boys and girls who are under 18 years of age. A Juvenile runaway is a young person incorrigible or habitually disobedient.[20]

Act of misconduct may include: Running yonder from home without the permission of parents, Habitual policies attitude of the tenancy of parents, Spending time uselessly attitude limits, Use of vulgar languages, Wandering well-nigh rail roads, streets market places, Visiting gambling centre ,Committing sexual offences, Shop-lifting, Stealing etc.

Suggestions

A grave problem such as juvenile misconduct can't he solved by ways of legislation and government efforts alone. As far as India is concerned in many of the states Children Acts have not been powerfully enforced. Some of these Acts themselves have defects. Official machinery is not powerfully used for executive this problem[21]. Government as well as private agencies must work hand in hand, honesty and importance, to find on constructive remedy for the problem of juvenile delinquency.

Conclusion

Though International law is really a law, it is binding in nature, it is a weak law due to lack of sanction. Further the Juvenile Justice amendment Act 2015 was made in accordance with the Constitution. The amended Act reduced the age of child to be dealt with the Juvenile Justice board because of increasing in crimes of Juveniles from the age of 16 to 18 years of age.

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