

ITEM NO.1

COURT NO.3

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 2517/2013

(Arising out of impugned final judgment and order dated 27/11/2012 in CRLA No. 391/2005 passed by the High Court Of Judicature at Allahabad)

RAM LAKHAN &amp; ORS.

Petitioner(s)

VERSUS

STATE OF U.P.

Respondent(s)

(with appln. (s) for bail and directions and permission to file additional documents and office report)

WITH

SLP(Crl) No. 3666/2013

(With appln.(s) for bail and Office Report)

Date : 17/09/2014 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. V. J. Francis, Adv.  
Mr. Anupam Misra, Adv.

For Respondent(s) Mr. Gaurav Bhatia, AAG,  
Mr. Amit Singh, Adv.  
Mr. Adarsh Upadhyay, Adv.  
Mr. Rajat Singh, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Petitioners No. 1, 3 and 4 who arrayed as  
accused Nos. 3, 5 and 6 before the Trial Court had  
during the pendency of these petitions filed an

application claiming to be juveniles as on the date of the occurrence. The application was supported by an affidavit and certain documents filed therewith. Since the application had been filed belatedly we had permitted learned counsel for the State of U.P. to verify the genuineness of the said documents before passing any further order in the matter. Pursuant to the said order an additional affidavit was filed on behalf of State of U.P. enclosing therewith translated copies of certain documents relevant to the question of juvenility of the applicants. The affidavit was however silent as to the genuineness of the documents relied on by the petitioners No. 1, 3 and 4 which part was to be examined by the respondent in terms of our order dated 07.02.2014. Be that as it may we had upon consideration of the averments made in the application the affidavit and the documents as also the affidavit filed on behalf of the respondent-State directed an inquiry into the petitioners claim for juvenility in terms of Rule 12 framed under the Juvenile Justice (Care and Protection of Children) Act, 2000. The inquiry was entrusted to Registrar (Judicial) of this Court who was left free to summon the relevant record from the concerned quarters, verify the genuineness thereof, afford an opportunity to the parties, record a finding whether the petitioner or

any one of them was juvenile within the meaning of the Act as on the date of the commission of the offence. We have now received from the Registrar a report dated 19.07.2014. A reading of the report suggests that the inquiry which the Registrar was directed to conduct has not been conducted in the manner required by the law and order passed by this Court. The Registrar has simply referred to the documents received from different quarters including those received from the Superintendent of Jail concerned and concluded that each one of three petitioners mentioned above was a juvenile as on the date of the commission of offence. We regret to say that the Registrar has neither understood the spirit of the order passed by this Court nor taken pains to act in terms thereof. We had in our order dated 02.05.2014 clearly stated that the Registrar was free to summon the relevant record from the concerned quarters, verify the genuineness thereof and afford to both the parties opportunity to prove their respective versions.

Mr. Gaurav Bhatia, learned AAG for the State of U.P. submits that although a notice appears to have been issued to the State of U.P. but because of some communication gap no one had appeared before the Registrar to participate in the inquiry. He seeks an

opportunity to do so if the Registrar is directed to hold a fresh inquiry into the matter.

We had as mentioned earlier directed the Registrar to verify the genuineness of the documents upon which the parties may placed reliance and to record a specific finding whether or not the petitioners or any one of them was a juvenile as on the date of occurrence. The Registrar could and indeed ought to have summoned the relevant records from the concerned quarters to satisfy herself about the genuineness of the documents which was a fundamental requirement for the acceptance of any such documents for purposes of determining the age of the applicants. No such effort or exercise appears to have been undertaken by the Registrar who appears to have proceeded on the basis that the documents produced before her were all genuine and therefore reliable for purposes of recording a finding. We are afraid that was not a correct assumption. The Registrar failed to appreciate that the petitioners are involved in a heinous offence of double murder and attempt to murder upon three persons for which they have been sentenced to undergo imprisonment for life. The prayer for benefit of Act has come belatedly at the stage of filing of these petitions before this Court. In the circumstances the Registrar ought to have been more circumspect in

accepting as genuine without any proof the documents which were placed before her. The inquiry conducted by the Registrar therefore does not inspire our confidence. We regretfully reject the report on that ground and direct a fresh inquiry to be conducted in terms of our order dated 02.05.2014 in regard to which the Registrar would do well to ensure that each document that is sought to be relied upon is verified as genuine by her by summoning if necessary the relevant record. The entire exercise shall be conducted in the presence of the learned counsel for the parties who shall be given an opportunity to cross examine the witnesses if any examined in support of their respective versions. A fresh report shall then be submitted by the Registrar expeditiously but not later than four months from today. The State of U.P. would do well to ensure that they participate in the fresh inquiry directed by us. We shall take a serious note of any future default in case the State remains absent from the inquiry before the Registrar given for a second time.

Post after the report is received.

(Shashi Sareen)  
Court Master

(Saroj Saini)  
Court Master