

JUDICIAL TRENDS ON JUVENILE DELINQUENCY OF INDIA

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Abstract:

Juvenile crimes are illegal activities which are against the social norms. Juvenile delinquency is the reference of illegal act of the children, deviant behaviour of children is main reason of the juvenile crimes in India. Juvenile delinquency is a worldwide problem; certain laws are made to control it in different form. On the basis of gender they also contributed in the different criminal activities like domestic violence, rude behaviour with female. Juvenile justice court provides all constitutional rights to the children but in serious cases they are punished by the juvenile justice system. ¹

Keywords: Juvenile Justice, Juvenile Delinquency, Judicial views on delinquent behaviour.

1.1 Introduction

The functions of the High Courts and Supreme Courts define which related with juvenile delinquency and juvenile justice. The Local level Courts also solve the matter of the juvenile delinquency at the starting stage of the juvenile crimes. But the juvenile crimes are developed in different forms in the society day by day. The approach of the judiciary related to the juvenile delinquency defines certain points like a matter of juvenile who is conflict with law, decisions of the Supreme Court, High Courts views related juvenile delinquency. The basics of the examination of the juvenile delinquency is also defines in this topic. The decisions of the juvenile justice board, juvenile courts are covered under the point of judicial measures of the juvenile delinquency.

The Constitutional rights are also providing to the children under Indian justice system in case of juvenile is conflict with Law. The competent authority solved the issue of a juvenile delinquent after the proper investigation and give opportunity to the juvenile delinquents to describe his or her view related to crime factor. At the starting phase of the case, the juvenile courts give a chance to define the question of the juvenility to the offender before the Court. Juvenile crime is a worldwide problem; all developed countries faced the problem of the juvenile crimes. In the small local area, rural area and urban sectors, juveniles are indulged in the criminal acts. The Governments made the juvenile courts, juvenile boards, and child welfare committee to control over the trouble of the juvenile crimes. The various laws are made by the Indian Legislation to solve the issues of the child delinquents. ²

The crime rate of the Juvenile Delinquent is defined in following points:

In the 2010 the criminal matters are 22740 and rape cases are 858 where juveniles are participated. In the time period of 2011 the rate of crime is 25125 and the rape case are increased are 1149. In the 2012 the crime rate is 27936 and the rape matters are 1175. In the year 2013 the criminal subject matters are 31725 and the rape cases are 1316. In the year of 2019 the criminal cases are 34226 and rape matters are 2215.

1.2 JUDICIAL DIRECTIONS RELATED TO THE JUVENILE DELINQUENCY

The Courts gave certain directions related to the juvenile delinquency, which are very important at the time of the decision of juvenile matter before juvenile court, juvenile justice board or other Courts.

- (a) Determination of the age of the juvenile.
- (b) Jurisdiction of the Juvenile Court.

¹ Juvenile Delinquency available at www.nap.edu (Last visited on 23 May 2020)

² Juvenile Delinquency available at www.legalmatch.com (Last visited on 22 May 2020)

- (c) Bail of the juvenile.
- (d) Present juvenile before the juvenile court.
- (e) Disposition of the juvenile.

1.2.1 Determination of the age of the juvenile:

Before arrest any person, the police have a duty to recognize the age of that person. If he or she is juvenile than there is difference between juvenile law and criminal law process, law said that young person should not sent in jail as an adult. The age of the juvenile is verified by the juvenile court with the help of the investigation detail of the police. Age identification of a Juvenile is a doubtful matter in juvenile justice system and a main point of juvenile matters because on this perspective the matters have been resolved by the courts.³

The purpose of the juvenile law said that adolescent is not treat as a grown person for their unlawful tricks but they are reorganized and redeveloped under safe environment, the subject of age purpose is controversial because there is no clearness in the law on this matter. Even in the Indian Penal code 1860, sections 82 and 83 supposed that infantile less the seven years and not over twelve years of age, not be put on trial for their wrong act. The main issue is related to the inquiry arise that who will decide the age group according the regulations of the Juvenile Justice Act and the Juvenile Justice Act 2015 that made to control on these issues or Juvenile Board made for settlement on the matter whether the person takes as a child or not. The evidence are taken for the decision of the age and described the time of birth by the official document given from the school or from the matriculation documentation which is used for the exam board, birth record given by any knowledgeable authority and if any of the documents are not existing then the age verified by any medical analysis. According to Act there are two conducts to conclude age of any antisocial human being, initial is documentary verification make available by him or by health check and confirmation of the investigation is necessary.⁴

- In a very historic case **Salil vs. Union of India**⁵, Court said that if the juvenile is psychologically capable to differentiate between term right and wrong and he is contribute in terrible crimes, young is conduct as Adult.

The reality is that a child be active in violence are mostly found in the social area, but the youngster misunderstanding and irresponsibility is grown with the cruel conduct of the adults. But the Juvenile Justice system provides safety to the juvenile delinquents; it is a critical point of society, if the question raised the appropriate justice given to the victim when juvenile commit serious crime and kept in the observation home not in the jail, because the criminal law is different for the juveniles. Juveniles consider as participates in the criminal actions and learn different pattern of the crime from the society.⁶

The law said that “nothing is wrong in the juvenile acts which shall influence the provisions of the Probation of Offenders Act, 1958 or any other law for the time being in force for the treatment, training or rehabilitation of youthful offender”. Section 27 of Criminal Procedure Code 1973 said “Any offence not liable to be punished by the death or imprisonment for life committed by any person who at the date when appears or is brought before the court is under the age of sixteen years may be tried by the court of a Chief Judicial Magistrate or by any court specially empowered under the Children Act 1960 or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offender.

1.2.2 JURISDICTION OF THE JUVENILE COURT

- **In Om Prakash vs. State**⁷ the High Court said that juvenile court has jurisdiction to solve the juvenile matter under reasonable grounds, if juvenile court could not clarify the point of the age of the accused. The High Court verified the age of the person; he is not a juvenile so he is punished like an adult.

³Legal Express International Journal of Law, Issue No.1, ISBNNO.1875, Publication Nov 13, 2014. ³

⁴ Judicial views on juvenile delinquency available at www.shodhganga.inflibnet.ac.in (Last visited on 2 June 2020)

⁵ 2013SC 805

⁶ Supranote7

⁷ 2013 HC 416

- Section 20 of the Juvenile Justice Act defines the particular provision of the juvenile matters, describes the rules for the pending cases and defines the legal aspects of the juvenile cases as a reason of the pendency of a matter in the juvenile court. The Juvenile Act explains the pending matter of the juvenile who is in conflict with law in juvenile court, any other court. The term “any court means all criminal courts, when the person was a “juvenile” under the Act the trial would not be pending in criminal courts.”⁸

1.2.3 BAIL OF THE JUVENILE

Bail is entitled to the juvenile under the reasonable points in the Juvenile Court. Juvenile Justice Act defines the particulars of the bail. The bail is rejected under the specific reason by the Juvenile Board. The NDPS Act is a certain act which deals with some certain crimes that are recognized as a social menace. Thereby the legislature has shown its wisdom by making some special provisions to deal with such cases and to affect the trail of such cases while granting the bail.

- In a case titled as **Gopi Ram v/s State of Haryana**⁹, the Hon’ble Court supported the opinion that if the court has a reasonable feeling or it is of the view that the accused may be innocent and may not have committed that offence then the court shall have power to grant the bail. And discussing further the court opined that the accused may have a change of heart and may not commit any such offence in the future if the bail is granted to him, then the court shall immediately grant the bail that particular person.

If we compare the provisions of Section 437 of Cr.P.C, the burden of proof is on the pursuit to prove the existence of certain grounds which shows that the incriminated is guilty whereas on the other hand Under Section 37 of NDPS Act. The hardship of proof is on the incriminated to prove the presence of certain grounds showing that the accused is not offence. The provisions for bail are strict and stringent as this Act NDPS is a strict one and the offence under this act are serious.

The discretionary power has been argue under section 439 of Cr.P.C and it is also subjected to the provisions of Section 37 of the NDPS Act. Under NDPS Act they have reversed the situation regarding bail as rejection of bail is rule and the granting of bail is an omission.

There is no provision regarding the extension of the benefits of the anticipatory bail to the accused. So in that case, some special courts have certain powers to entertain such types of applications that we call an application for the anticipatory bail under section 438 of Cr.PC. and also with regard to the disposing of such applications for granting the anticipatory bail. The anticipatory bail is also known as the pre-arrest bail.

The provisions of section 20 of the TADA¹⁰ Act are mostly related to the plans of section 37 of the NDPS act. If the court is accepting a liberal approach while granting the bail then it believes that he is not guilty.

There are some conditions which need to be fulfilled before granting bail to the person who is charged to commit the offences under NDPS Act. These conditions are laid down by the parliament as follow:-

- i. The court should have honest grounds to believe that the incriminated is not guilty of such offences under the NDPS Act rather he is trapped by someone for some benefit or for enmity and
- ii. Secondly the court is also of the opinion that it is possible that the person who is charged many not commit any offence while he is on bail.

In a very historic case **Jitendra Singh vs. State of U.P**¹¹ observed that “The accurate reasons are requirement for the acceptance of the bail in the Juvenile Court. The bail is rejected if there are no reasonable grounds.

⁸ *Juvenile Justice Act (Care and Protection of the Children) 2000*

⁹ 1994 (2) Crimes 1075 (P&H)

¹⁰ *Terrorist and Disruptive Activities (Prevention) Act,*

1.2.4 PRESENT JUVENILE BEFORE JUVENILE COURT

A child who is in conflict with law is produced prior to Juvenile Board in twenty four hours of apprehension. The Board verifies the matter of the juvenile dispute in lawful manner. The right of hearing is also given to the juveniles. The fair investigation and justified decision must provide to the juveniles. The matters of petty offences of the juveniles are solved by the juvenile board with summary process of the law.¹²

- **In a historic case Jabar Singh vs. Dinesh and Anr¹³** the claim of juvenility raised by the respondent, the court had to decide the claim of juvenility of Respondent No.1 on the materials or evidence brought on record by the parties and Section 35 of the Evidence Act. This Court has held that in case of a dispute with regard to the age of the person who is alleged to have committed the offence, the Court verify the evidence regarding the facts and circumstances of the case and it will be the duty of the court to provide justice according the juvenile law, if he is found to be a juvenile than give benefit of juvenile law to him and not to give the same benefit to a person who, in fact, is not a juvenile and cause injustice to the victim.”

1.2.5 Disposition of the case

The Juvenile Court solved the juvenile matters according the provision of the Juvenile Justice Act. The three steps are necessary for the decision of the Juvenile conflict before the Juvenile Court. The hearing, pre trial hearing, trial are the most important points for the disposal of the case. The Juvenile will sent to the reformation house, observation home. The main object of the Juvenile Court is reform the juvenile.

1.3 Juvenile offenders under NDPS Act

There has always been a conflict between the cases of juvenile justice (care and protection of children) Act 2000. The cases of juvenile under the NDPS Act should be tried while considering the body of the juvenile justice Act. If a juvenile commits an offence under NDPS Act then court shall be governed by the provisions of Juvenile Justice Act 2000. Under Section 12 of the Juvenile Justice Act, the session's court or High Court has power to allotment the warrant as juvenile courts. If it is proved on the record that the person who has committed an offence relating to drugs is a child then he shall be entitled to the bail under this particular Section 12 of the Juvenile Justice Act 2000.

1.4 CONCLUSION

We can say that the Juvenile justice deal with the reformatory points of the juvenile and it is not a part of retributive justice. Law is used for providing justice to all, when it is enforced and implement in whole area of the society. The Act 2015 is the paramount rule of care and safety for teenagers. Juvenile justice system establishes for decrease the misbehaviour difficulty of the juveniles and defines reformation methods for the re- establishment of juveniles as an alternative system of the punishment. The children became educated, well-trained and faithful citizen if community give proper opportunity and care for them, so they take part in the country construction if they have appropriate knowledge, awareness and guidance. Our responsibility is to reduce the evils in the society that helps to becoming best moral based family. This can be achieved to learn ethical, spiritual points and read material related to conduct with the youngsters and learn about the law modes of the improvement of the children. The awareness related the psyche of the children is very necessary for the parents to control their children with peaceful manner. The judiciary makes certain statements for care of the children but the care must be give from the local level of the social life.

¹² Child in conflict with law available at chandigarh.gov.in (Last visited on 29May 2020)

¹³2010SC6672

¹⁶2015SC3142

