

**A STUDY ON CRIMINAL JUSTICE SYSTEM IN INDIA: NEED OF REFORMS WITH A REFERENCE TO THE POLICY OF PUNISHMENT AND SENTENCING**

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Abstract

It is noteworthy that in almost all the ancient penal systems of the world, in the matter of punishing criminals, the practice of punishing adults or minors, children, juveniles, youth, old men equally was prevalent. Therefore, at that time there was no question of their leniency while punishing juvenile or juvenile offenders.

But with the adoption of a reformatory approach in the penal system, emphasis was laid on adopting a liberal and sympathetic approach towards juvenile offenders as the perception changed that children and adolescents are naturally playful, adventurous and curious and quick to respond to various temptations. For this reason, they are easily attracted towards criminality and if their tendency is not controlled in time, then there is a possibility of becoming a criminal in the future. Keeping this in mind, efforts have been made at the world level to deal with juvenile offenders and a special juvenile justice system has been implemented in place of the common judicial process for their trial, care and protection.

Introduction

The building of any nation and the future of the nation depends on the children of that nation, if the future of the children is not secured, then the future of the nation will also be insecure. According to the time and circumstances, the number of such children is increasing. They commit crimes at an early age. In the language of law, children who are prone to crime have been called 'anti-law juveniles'.

For such juveniles in India, some time ago the Juvenile Justice (Care and Protection of Children) Act, 2000 (Juvenile Justice Act, 2000) has been passed. Efforts are made to provide such children a family environment by keeping them away from the environment of the prison, court etc.

All the provisions of the Indian Penal Code, which provide for punishment in respect of various offenses, all those provisions also apply to juveniles above the age of 12 years, that is, any juvenile above the age of 12 years commits any kind of offense. In that case, his offense will be considered punishable and arrangements for prosecution have also been made against him.

But in this way the system of juvenile justice in respect of juveniles above the age of 12 years has been made by the Parliament of India. The Parliament of India provides different types of justice in relation to such juveniles. If any offense is committed by a juvenile, then the provisions of the Juvenile Justice Act 2000 made by the Parliament of India shall apply in relation thereto.

Sections 27 and 360 of the Criminal Procedure Code of India provided that while punishing persons below a certain age limit, special leniency should be shown to them. In view of the increasing commitment to juvenile justice, these provisions appeared to be limited. Therefore, following the principle of generosity towards adolescents globally, the Children's Act was passed in 1960 in India. This Act came into force in 1986. But as a member country of the League of Nations, it became necessary for India to accept certain minimum standard rules.

By adopting the above minimum standard rules regarding juvenile justice, a comprehensive law was passed in India for juvenile offenders which came into force in the name of Juvenile Justice Act, 1986. As soon as this Act came into force, the erstwhile Children's Act, 1960 was repealed.

Juvenile Justice Act, 1986, it was found that this law needs to be made more comprehensive and effective. During this period, due to the increasing number of juvenile offenders and the disorder of their proper care and protection, it was decided to implement a new Juvenile Justice Act in place of the said Act.

Therefore, the Juvenile Justice Act, 1986 has been repealed and the Juvenile Justice Act, 2000 has been implemented. The basic objective of this act is to ensure justice to juvenile offenders as well as to make arrangements for proper care and protection of destitute children and juveniles.

The important feature of this Act is that the juvenile who has committed the offense under it has been called an anti-lawful juvenile, not being addressed as a criminal or delinquent juvenile.

In the trial of anti-lawful juveniles, it is necessary to consider the following two points prominently in relation to their age-

- 1- Whether the age of the accused person comes in the category of juvenile age or not.
- 2- The date of determination of the age of an unlawful person to be considered a juvenile shall be the date of the offense committed by him, or the date on which he was produced before the competent authority for trial.

The Supreme Court, in *Devaki Nandan Dayma v State of Uttar Pradesh et al.*, held that the d.o.b. of the unlawful juvenile recorded in the school register of the trial court, while examining whether the accused was of juvenile age or not, was admissible as evidence. But whether it is accepted or not will depend on its probative value.

Where there is a difference between the d.o.b. shown in the school certificate and the d.o.b. mentioned in the medical certificate, the date of the school certificate shall be treated as better evidence as the d.o.b.

indicated in the medical certificate may be based on conjecture, hence the highest. Accepting the appeal, the court directed the Uttar Pradesh High Court to hear the matter again.

The High Court of Madhya Pradesh held in the case of Sunil and others vs State of Madhya Pradesh that the burden of proving whether a person against law comes in the category of juvenile or not, will not be on the ' juvenile ', but it should be determined by the court on its own responsibility.

In this case, the Sessions Court had rejected the bail application of the juvenile on the ground that his medical report showed that he did not come under the category of juvenile. The Court decided that the burden of proving the age would not lie on the unlawful juvenile and that the Court should determine it.

Similarly, in the case of Ejaz Ahmed vs State of Madhya Pradesh, it was also held that the court itself has the responsibility to decide whether the accused is of juvenile age or not. Therefore, in the absence of such inquiry, there is no other way but to return the case to the trial court so that the age-related inquiry can be made and the decision can be taken.

In Ajay Pratap Singh v State of Madhya Pradesh, the High Court dismissed the charges that no inquiry was conducted to determine the offense. In this case, the Additional Sessions Judge, by his order, had held that the age of the accused juvenile brought for trial as per the medical report was more than the prescribed maximum age, so he was not eligible for the benefit of Juvenile Justice Act, because he was not of juvenile age.

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Yajnavalkya¹, II 298, 299;

Yajnavalkya portrayed the point that for accidental disaster a man was not strong. As shown by him, expecting that escort or the owner of cows hesitantly allowed them to nibble on a field facilitated at the edges of a turnpike or a town or a plot of land covered with grass he committed no offense. Anyway, comparable deliberate show he was to be repelled like a wrongdoer. Along these lines Brihaspati also laid entrancing element on objective with respect to shocking a responsible party. As shown by him a person who committed offenses deliberately should simply be spurned.

The Female Infanticide Act 1870²; The Vaccination Act, 1880; the Guardian and Wards Act, 1890; Factories Act, 1881; Children Acts passed by various States and other enactments.

¹ Yajnavalkya, II 298, 299; Section 80 of Indian Penal Code provides any act done by accident or misfortune and without any criminal intent

² The Female Infanticide Act 1870; The Vaccination Act, 1880; the Guardian and Wards Act, 1890; Factories Act, 1881; the Apprentice Act, 1850; the Indian Penal Code, 1860; Reformatory Schools Act, 1876

A decided change in the outline for express treatment of adolescents went with the procedure of British who introduced English norms on the ground of basic worth, worth clean still, little voice what's more the supporting of various principles.

A detailed analysis of the JJ Act, 2015³

The 2015 Act has been conflicted with normally on two counts; one it pardons the UN shows of youths and two it zeros in more on reaction than redoing of Juvenile Delinquents. Sreedhar Mether, movement and framework supervisor at save the youths, —pointed out that most juvenile attack cases turn out to be occasions of elopement wrongly held as attack what's more the methodology in the new law of reprimanding the attitude of the young adult offender as grown-up like or young person like is strange. Further, yet there is an information in the point of view of people that young adult punks are relentlessly finishing offenses, for instance, attack, it has been recorded they are a gigantic piece of the time overcomes of abuse themselves. A report by Asian Center for Human Rights in 2013 named *'India's Hell Holes'* has widely recorded about the events of juvenile assault in young adult worth homes. It records occasions of energetic partners getting sodomized and youngsters getting genuinely manhandled or whipped in government-run —protectionll homes across India.

Lakshmi Kant Panday⁴ v. UOI, 1984 (2) SCC 244.

Each broad people from one side of the world to the next is faced with the issue of culpability among both energetic and grown-up and it is young adult offense which is viewed as a way to deal with grown-up dreadful approach to acting. Kids are most critical fortune watching out for what might be relatively close and are the major assets of a nation and society. It wouldn't be inappropriate to say that future succeeding of a particular nation truly depends on how its children endlessly make.

From selected works of Pankaj Singh⁵

Juvenile Delinquency shows any failure or oversight of obligation or issue or horrendous approach to acting concerning the youngster. Likewise, delinquent as shown by word reference proposes an individual who bombs his obligation or a lowlife, and that initiates that while suggesting energetic adult terrible approach to acting, one should survey the offenses executed by individuals who are under unambiguous as yet hanging out there in the custom that should be stuck to.

³ A detailed analysis of the JJ Act, 2015

⁴ Lakshmi Kant Panday⁵ v. UOI, 1984 (2) SCC 244.

⁵ From selected works of Pankaj Singh⁶, —Juvenile Justice Systeml, available at: http://works.bepress.com/pankaj_singh/5, last visited on 12/1/17

United Nations Congress⁶

The age for youngsters shifts starting with one State then onto the accompanying regardless more noteworthy piece of States from one side of the world to the next have fixed the age, with little plans, at 18 years around. Hence, saying that the opportunity of energetic adult hugs the two adolescents and teenagers wouldn't be silly. Appropriately, delinquent affinities or showcases of youths as well as of youngsters are treated as juvenile offense.

Dubey, Shivam & Pooja Agarwal⁷ (2017)

Awful approach to acting is everything except for a singular characteristic it exists in number of plans like motivation, murder, unlawful cheating, charge repugnance, etc. What's more, terrible approach to acting is viewed as a key part in understanding a country's socio-social, political and financial situation.

Venugopal Rao,⁸

It is endeavoring to portray or figure out horrible approach to acting comprehensibly, it is in like manner hard to find accessible assets of controlling it and when terrible conduct experts make moderate game plans to revoke the dreadful approach to acting and reorient the contemplations of discipline they basically express their predictable mission for the best hoodlum structure.

Prakash Haveripet⁹.

Until nineteenth hundred years, youths who did awful approaches to acting were given same discipline as was surrendered to made criminals like public shaming, limitation and even execution by hanging.

Then, close to the fulfillment of nineteenth century reformers like Jane Addams of Chicago attempted to design another value development which shielded mishandled kids from hurt and endeavored to transform them.

Csare Becearea¹⁰,

⁶ United Nations Congress on the prevention of crime and treatment of offenders in 1960

⁷ Dubey, Shivam & Pooja Aggarwal, Crime, Crime Rates and Control Techniques: A Statistical Analysis

⁸ Venugopal Rao, —A Facet of Crime in India, 1967, Journal of Criminal Law, Criminology and Political Science

⁹ Prakash Haveripet, Causes and consequences of juvenile delinquency in India, Recent Research in Science and Technology 2013

¹⁰ Csare Becearea, founder of Classical School of Criminology

The advancement of the juvenile worth structure in the world relied on the likelihood that young people and adolescents are not equivalent to adults. Youth surely pronounce that young people and youngsters have incredible necessities thinking about how they are making, slight and inclined to adults.

Discussion

The High Court, while hearing the appeal of this case, held that where the juvenile under consideration has been argued to be of juvenile age, it becomes obligatory for the Court to inquire itself as to what is the actual age of the accused person. Therefore, the court directed to investigate the matter while returning to the Additional Sessions Court, Jagdalpur.

The Rajasthan High Court decided in the case of Dhuru vs State of Rajasthan that for the purpose of Juvenile Justice Act, the age of accused juvenile should not be determined on the basis of physical constitution, etc. In addition, other available evidence should also be considered.

The Supreme Court, in Prabhunath Prasad v State of Bihar, emphasized that - In the trial of illicit juveniles, the trial court should first determine the age of the juvenile on its own so that later there is no confusion or dispute in this regard. In the case of Anita Vs. Atal Bihari, the Madhya Pradesh High Court held that the entries in the Register of Births and Deaths are legally maintained.

Therefore, these entries can be used for the prevention of adolescent age and it will be given preference in comparison to medical opinion. In Ramdev alias Rajnath Chauhan vs State of Assam, the Supreme Court held that the d.o.b. recorded in the school register for determining the age of a juvenile can be taken as reliable, but it will be admissible only if he duly maintained by the competent authority.

In this case, according to the d.o.b. of the juvenile recorded in the school register, he was to come under the category of juvenile, but he failed to prove that the new d.o.b. was entered by any public servant or any authorized person. Therefore, the court refused to accept it as credible.

In the case of Bhola Bhagat v State of Bihar, the Supreme Court held that whether an accused is a ' juvenile ' or not shall be determined on the basis of his actual age as on the date of commission of the offense and that decision shall be taken by the Court itself. Whether the accused is eligible for the beneficial provisions of the Juvenile Justice Act. But the Supreme Court, reversing its aforesaid judgment, held in a suit in the State of Bihar that whether the accused is a ' juvenile ' or not, the crucial date is not the day on which the offense was committed, but the date on which the accused is brought to the notice of the competent authority of Court was presented.

In the case of Rajinder Chandra Vs Chandigarh, the accused was arrested on the same day on 27-2-97 by implicating the accused under section 302/34 of the Indian Penal Code. The accused described himself as a juvenile as he had not attained the age of 16 years. (Under the Juvenile Justice Act, 1986, a boy below

the age of 16 was considered a juvenile but under the Juvenile Justice Act 2000, it should be below 18 years for both boys and girls) and Juvenile Justice Demanded to be given the benefit of the 1986 Act. After inquiry regarding the age of the accused, the Judicial Magistrate First Class and the Sessions Court refused to treat him as a ' juvenile '. Against this the accused filed a revision petition in the High Court, which was accepted by the High Court and accepted the accused to be a juvenile. The complainant and the father of the aggrieved person appealed to the Supreme Court against the said decision of the High Court. The Supreme Court found the accused to be 30-9-1981 on the basis of birth chart, d.o.b. recorded in the birth-death register, high school birth certificate etc. The trial court and the sessions court had also considered the evidence given by the parents of the accused and his primary and high school teachers and concluded that the demand for the benefit of the Juvenile Justice Act was made by the juvenile himself. Therefore, the burden of proving himself as a ' juvenile ' as per the computation of age was also on him as the oral and documentary evidence produced in this regard created a state of doubt as the accused had failed to prove it.

Conclusion

Trial Court and the Sessions Court, while refusing to treat him as a juvenile, did not consider it justified to give the benefit of the Juvenile Justice Act, 1986, but the High Court in the revision; reversed the decision of the lower courts.

Enduring that an adolescent is introduced as a youngster battling with rule, it will be seen as an adolescent who has been found to have committed an offense close to accepting the specific is familiar with the authentic definition as given in the Act.

The Juvenile Justice Act 1986 used the term right when the energetic adult was found to have committed an offense. For reasons unknown, the Juvenile Justice Act 1986 involved the term young adult for criminals as well as disregarded kids in contradistinction to the Juvenile Justice Act 2015 which consolidates the word kid for all classes of teens covered under its procedure like the case interfacing with kids Acts passed start around 1960.

References

1. Yajnavalkya, II 298, 299; Section 80 of Indian Penal Code provides any act done by accident or misfortune and without any criminal intent or knowledge is not an offence provided the act was done in a lawful manner by lawful means and with proper care and caution.
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5. Lakshmi Kant Panday v. UOI, 1984 (2) SCC 244.
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