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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 529/2007

BADRI NARAYAN Vs. STATE OF RAJASTHAN

DATE: 01.06.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Sudesh Bansal for the petitioner.
Mr. B.K. Sharma, Public Prosecutor for the State.
Mr. Anoop Dhand for the complainant.

The present criminal revision petition under Section 53 of the Juvenile Justice (Care & Protection of children) Act, 2000 (for short 'the Act of 2000') is directed against the order dated 23.05.2007 passed by the Sessions Judge, Jaipur City, Jaipur in Juvenile Criminal Appeal No. 259/2007 dismissing the appeal filed by the petitioner on the ground of limitation only.

This is the second round of litigation. Earlier also the petitioner had preferred a revision petition before this Court registered as S.B. Criminal Revision Petition No. 262/2007 which was directed against the impugned order dated 13.11.2006 passed by the Juvenile Justice Board, Jaipur in Criminal Case No.

449/2006 by which the accused-petitioner has been held major. The said impugned order was challenged on the ground that the petitioner was declared major without holding enquiry about his age under Section 20 of the Act of 2000 and this Court vide its judgment dated 11.04.2007 without expressing any opinion on the merits of the case observed that since the petitioner has got alternative efficacious remedy as provided under Section 52 of the Act of 2000, therefore, the said revision petition earlier filed by the petitioner was dismissed as not maintainable and liberty was given to the petitioner to redress his grievance before the Court of Sessions.

Thereafter on 17.04.2007 the petitioner preferred appeal before the District & Sessions Judge, Jaipur City, Jaipur under Section 52 of the Act of 2000 and the District & Sessions Judge vide its impugned judgment dated 23.05.2007 without deciding the said appeal on merits, dismissed the same on the ground of limitation only.

Since this Court has given liberty and the petitioner has filed application under Section 5 of the Limitation Act as the time consumed in filing the revision petition before this Court and on filing

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appeal before the District & Sessions Judge, it should be taken into consideration by the District & Sessions Judge as bonafidely this time has been consumed by the petitioner.

Although the Revisional Court has jurisdiction to hear even without availing alternative efficacious remedy but this Court thought it proper that without exhausting alternative efficacious remedy which was available to the petitioner, the revision petition earlier filed by the petitioner has been dismissed. The District & Sessions Judge, in the interest of justice, should decide the said appeal on its merit after condoning the delay but without deciding the appeal on merits, dismissed the same only on the ground of limitation.

Therefore, I deem it proper to direct the District & Sessions Judge, Jaipur City, Jaipur to condone the delay in filing the appeal and shall hear the appeal afresh on its merit and shall decide the same on merits after giving opportunity of being heard to the parties.

Accordingly, the impugned judgment dated 23.05.2007 passed by the District & Sessions Judge, Jaipur City, Jaipur is hereby quashed and set-aside and

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the matter is remanded back to the District & Sessions Judge, Jaipur City, Jaipur for fresh adjudication as indicated herein above.

With these observations, the revision petition stands disposed of.

(K.S. RATHORE),J.

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