

Age of Criminal Responsibility

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Abstract: The expression 'juvenile' has consequently been said in legal understanding as an expression symbolizing correlation; as a name signifying capability; and as an expression of exclusive fortification. Primarily these substitutive stipulations are very dissimilar notions regarding the juvenile. These involve bearing in mind a juvenile a load, which appeals to the right to protection and sustenance; concerning juveniles as persons with momentary intellectual incapability, construction of rights to unique handling and unique prejudice; dealing children as particularly susceptible, to make certain of the rights to safety; and be familiar with juveniles as assets for the nations prosperity, imposing development and progression. Therefore it doesn't emerge to be at all a decisive feature or systematic consideration for shaping a under aged: the age bracket in several legislations seems illogical or founded on social and civilizing awareness. The juvenile laws and exercise of children wellbeing has gone by major changes from an historical viewpoint. Previous to 1839, to have power and exercising that power was essential. It was a recognized general legal principle that the father had unconditional rights on his child. Later, the wellbeing opinion was imitated in the central ideas of the family. Victorian judiciary, who urbanized the wellbeing law, preferred one dominant family form. The nations point of view on wellbeing is stands on daya, dana, dakshina, bhiksha, ahimsa, samya-bhava, swadharma and tyaga, the spirit behind it was 'self-discipline', 'self-sacrifice' and 'consideration for others'. It was assumed that the welfare of juveniles is based on these principles. Juveniles were beneficiaries of wellbeing method. The demand for judiciary's discretion on authority to settle on whilst to treat an accused as a major or a child will show the way to confusion instead of firmness in law.

Keywords: criminal responsibility, juvenile.

AGE OF CRIMINAL RESPONSIBILITY:

Association of Juvenile in the rape of a 23 year girl in Delhi has led to a sturdy dispute for revisiting and expansion of the age boundary for deciding the criminal responsibility for grave crimes by Juveniles. Legal scholars, admired demand for reducing the age boundary of Juveniles in instances of heinous crimes and therefore be tried in the criminal courts beneath standard criminal justice system and not beneath Juvenile Justice Act which gives a separate conduct for under age offenders under 18 years. The chief basis of the act is to restructure their immaturity to commit an offence. While the requisition for deciding criminal responsibility in instances of such heinous offences is much reasonable, the main proportioned issue remains whether this action would really operate as a deterrent or have grave ramifications on crime deterrence, safety of women in the social order at large. Will reducing the boundary of age resolve our issue of dreadful crime deterrence in any manner? According to the NCRB statistics of 2011¹, juvenile crimes comprise 1.1 % of IPC offences in which nearly 2 % of their offences were brutal of the total violent crimes were registered. Not discounting the microscopic figures of offences by Juveniles and treating each offence critically, we have come up by the issue to decide the age of criminal responsibility. NCRB, Statistics state that among the IPC offences by Juveniles 64 % of juveniles were between the age of 16-18². There were a minimum 32.5% of offences by the age cluster of 12-16 yrs. and 3.6% by the age cluster of 7-12 years. Offences by Juveniles in the lowest age are 7-12 yrs. which increased by 30.6 % in 2010, the most giant leap amongst the age brackets. Can our instinctive sensitivity permit us let a child of 10 yrs, Saunter the gibbet for the criminal wrong or will we respond another way to the case as individualistic and the social order? Or will we carry on revising the age boundary at every grave incident when reported against juvenile of particular age?

¹ <http://ncrb.nic.in/CD-CII2011/Statistics2011.pdf>

² http://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&ved=0CDAQFjAB&url=http%3A%2F%2Ftimesofindia.indiatimes.com%2Ftopic%2FNCRB%2Fnews%2F&ei=LxVHUPTVHojkrAfP_IGoCA&usq=AFQjCNGnv4hAIHrGEQcM8yxXE_qimnFjpA&bvm=bv.53217764,d.bmk

Our simple principle of responsibility with its relation to age was with respect to qualitative ethical verdict. The issue concerning determining age for criminal responsibility is complicated as established through many cases across the globe. Across the globe, also in India we have kept the majority age to be 18 years. The laws in our country have entitled & assigned legal responsibility to persons above the mentioned age -be it right to vote, right to drive, right to enter into organized employment, right to get married. The law has entrusted rights over a minor to the parents or legal guardian below this age, they cover the total power over their lives, without any consideration to how they are taken care of in their day to day life. It is an unfathomable inconsistency to allow the juveniles owe responsibility for their crimes while their control lies with someone else. Does this not signify that when these sought of crimes are committed by the underage the adults or the state (in instance of a insolvent executing an offence) ought not possess the culpability as well? In the point of view of supporting the deciding criminal liability Juveniles get treatment as an independent body and on the other hand law guarantees adult rule on them, which is deeply absurd. The present Juvenile Justice system has been shaped subsequent to a lot of arguments and dialogue. It is kept as essential legislation in the world with conformity to the international code of behaviour and etiquette. The issue is not in its aim but in its execution. The fundamental sense of the JJ Act is to reform the juveniles. Presently it is a bit hard for the country or for everyone to pronounce how many really get rehabilitated after transiting through this structure. Before the modification of present Juvenile Justice System in 2000, all the juvenile offenders were sent to the jails with the adults, which later led to more number of criminals. If the age of criminal responsibility is reduced, would we like to create a similar kind of situation or should we seriously take into account for recuperating management of the current Juvenile Justice system? The current state of the running of Juvenile Justice System raises a question concerning our objective to attain its improvement or reformatory ideology. Facts are in abundance showing pitiable and grungy condition of Juvenile Homes in the state. Keep the infrastructure aside, we don't even cover trained manpower in these Homes to even work with the under aged. The organizations which provide care and protection for juvenile Homes, SJPU, CWC and JJB have a shortage of staff or are incompetent who really do not own the expertise to deliver the work. There have been instances of dreadful sexual abuse of the juveniles in the juvenile homes, but the concerned authorities do not seem to be bothered about improving the living conditions in these homes and to ensure that children are reforming which is the basic principle for establishment of these homes. The Juvenile Justice structure without a doubt consents isolation of juveniles. Though at many instances they are clustered collectively leaving the extent of transforming a blameless into a probable criminal under peer influence. There's no sought of proof on grounds for juvenile delinquency. Poverty is one of the causes for juvenile delinquency. Internationally researchers have admitted to a sturdy relationship among Juvenile delinquency with wrecked family or lack of care by parents. The need to take appropriate steps for children is not only deficient in our governance model but it stretches to our education institutional body.

The need for revising the age for the juvenile necessitates a cautious thought. It's a well-founded worry that numerous underage delinquents are tough to rehabilitate even with prerequisite of finest of the services. Terms to discourage the adolescents from committing greater offences are needed to be carefully examined. If the basic approach is followed whereby a boundary to criminal culpability is decided and hence making the juvenile's being tried upon in the regular adult courts will lead to a greater probability of the offender to transform into a hardcore criminal.

On 17 July 2013, the honourable Court discarded a petition which demanded revising the JJA to reduce the age boundary of the juvenile. If it would have been flourished, the revision would have permitted juveniles of 16 yrs to be tried as majors and receive sentences similar to a major, including the death penalty. International standards, including the conference on the human rights of the juvenile to which India is a party, has declared that the age of the juvenile should be 18 yrs of age³. The petition for reducing the age of the juvenile gathered force at the time of the gang rape which led to the death of that woman in Delhi on 16th December 2012 in which an accused was 17 years of age. The instance catalyzed a national question on a various topics which led to calls for the reduction of the age of the juvenile. Broadly, community annoyance at this instance has led to the craving for brutal sentencing for under ages in grave instances.

More than 75 domestic and global NGOs functioning at various parts of the world, scholars and legal experts came mutually for promoting the significant governing ministry and judicial board to sustain the protocols of the JJA. Plus, the promotion said that the improvisation of the law would lead to a trend whereby affecting a large number of teenagers and youngsters presently unconstrained to reformative work to be done beneath the present law. They suggested that working for deterrence, conduct and reformation is a cautious and effective way to make sure for civic protection, and making sure

³ http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_PRESS200910web.pdf

about liability for offences done by under aged which is needed to be stranded in juvenile psychology, juvenile's personal civil rights with a thoughtfulness of the social and economic order along with various situations which are a cause to this sought of manner. In our state, the age at which an individual can be prosecuted as a major is 18 but the cruelty of the rape instanced on December 16, 2012 whereby involving a juvenile committing the rape on the girl where he was about to cross the age of minority in a matter of few months led to the demand for the reduction of the age limit. The cerebral and rational capability of the person, despite the age, identifies whether a person should be tried as a major or not. Community says for the age boundary to be reduced to 16 yrs of age. In my view, even if the age boundary of the age of criminal responsibility is reduced to 14, it would lead to nothing off beam with it. It would be subject to review any most instances. A commission created by the command of our country to suggest ways to progress laws which would protect women suggested in opposition to altering the upper age boundary for minors in our state. Gopal Subramaniam (former solicitor general of India) who was the part of that commission acquainted the India Real Time that minors might not all the time be entirely liable for their choice. "If we would have had the kind of schooling similar to that of Netherlands or alike Scandinavian democracies, then we could have brought the reduction in the age boundary to 16 or 14, as the students in those countries are educated conscientiousness from a small age,"

He further suggested that the age of majority in our state has a "direct link to the Indian education system and with the social environment."

The initial special legislation for the minors in "Bharat" was passed in 1850 with the Apprentice Act which required the children aged 10-18 prisoned in court to be taught vocational training as the means for reformation⁴.

The law pertaining to the juveniles went throughout many changes till the first JJA, 1986 which stated juveniles as below 16-boys and below 18 for girls⁵. This legislation was condemned by the human rights activists as it led kids who were a part of any crime in rehabilitatories with those who were ignored and in requirement of concerned from the nation.

In the year 2000, our state lifted the characterisation of a male juvenile to 18 from 16 beneath the JJA. It was a part of the state's duties beneath the UN Convention signed in 1992, held on the Rights of the Children⁶.

Other dignitaries, like the United States and the United Kingdom kept the age limit for juveniles to be 18 but in the above mentioned countries minors are tried in the adult courts. In the United States, litigants can demand the court for the matter of a juvenile be moved to an adult court, according to a report by the U.S. Department of Justice. Bench in the courts for the minors can rule that a minor be tried as a major. In instances where the crime is serious, like rape or murder, criminal courts for adults can separately call for the authority over the case.

In the United Kingdom, those juveniles between 10-17 yrs of age charged with crimes are prosecuted in juvenile courts. The offenders above 18 are viewed as adults, but till the time they become 25 they are sentenced in amenities for 18 to 25 yrs and not in complete prisons for the grown-ups.

Socialists have condemned our country's juvenile laws for regarding it as too soft. The utmost sentence in the law, even for acts like rape and murder, is 3 yrs' imprisonment in a rehabilitatory. Whereas, in the United Kingdom and the United States confinement in the grave offences is life imprisonment. Till 2005, juveniles could also be decreed to capital punishment in the United States.

In the view of the Penal Reform International, an NGO in London looks for the altering in the jail organism globally, research from the U.S. has recommended that transmitting juveniles to grown-up courts leads to high amount of pre-trial detention, more severe decrees, placing of juveniles in adult amenities and overall increment in statistics of committing a crime again⁷.

The IPC consents for juveniles up to 12 yrs to be considered incompetent of figuring the 'Mens Rea' to execute an offence.

⁴ http://en.wikipedia.org/wiki/The_Juvenile_Justice_%28Care_and_Protection_of_Children%29_Act,_2000

⁵ <http://www.childlineindia.org.in/pdf/CP-JJ-JCL.pdf>

⁶ http://en.wikipedia.org/wiki/Convention_on_the_Rights_of_the_Child

⁷ http://www.penalreform.org/wp-content/uploads/2013/05/justice-for-children-briefing-4-v6-web_0.pdf

The children below this age boundary must be said liable for their conduct, although in beneficial and edification oriented approach, according to a UNICEF report in 2005⁸.

UNICEF has suggested for the lowest age to be 13 globally⁹. The problem with juvenile rights commences with the very meaning of a juvenile in the statute for the juveniles. A juvenile domiciled in our nation gets major when he/she becomes 18. However there are quite a few loopholes in the statutes.

Who is a child? When does childhood end or start? These uncomplicated queries have multifaceted responses. The gone era's civilisations did not believe juveniles as homosapiens with complete human cost. As a result, childhood was not a sovereign social group till the commencement of the 18th century. Law making did not consider with under age as an era of life that requires particular process of shelter till the starting 19th century. In his book, *L'enfant ET la vie familiale sous l'Ancien Regime*, Philippe Aries said that "the child in the Middle Ages¹⁰ did not exist as an independent anthropological category and therefore children did not need to be taken into consideration."

It was at some stage in the 20th century when the idea of juvenile's rights appeared. This swing in spotlight from the wellbeing to the rights approach is essential. With reach to certain rights there are certain obligations to fulfil. The rights perspective is first and foremost apprehensive with the subject for attaining societal justice, non-discrimination, impartiality and empowerment. The rights approach is personified in the UN Conference on the Rights of the juvenile (CRC) in the year 1989, that acted as a milestone in global Human Rights Law. Our nation approved the Conference on the Rights of the juvenile in the year 1992.

Article 1 of the CRC states that:

"A child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier"

The statute hence permits singular nations the judgment to decide by law whether babyhood dies away at 12, 14, 16 or whichever age originates suitable. Presently, almost all ethnicities split the sight that the younger the juvenile the more incompetent she/he is in the flesh and mentally and the less able to fend for themselves. Age boundaries are an exact mirror of societal verdict about the development of juvenile's abilities and accountability. More or less all over the place, age boundaries regulates juvenile's activities: when will they depart school; when will they be allowed to get married; when can they take part voting for the selection of their representatives; when can they be treated as a major by the judicial structure; when will they be allowed to join the defence services; and when will they be permitted to work but age boundaries vary among various activities, and from nation to nation. Legal age of the juvenile in Indian law- Some provisions in the Constitution of our country compel the country the chief duty of making sure that all the wants of juveniles are fulfilled and that their indispensable human rights are completely sheltered. Article 21 A of the Constitution of India states that the country shall make available "free and compulsory education to all children within the ages of 6-14 yrs in a way which the government may by law establish. Article 45 of the Constitution says that the nation should endeavour to make available early childhood care and edification for all children until they complete the age of 6. Article 51 (k) lays down a duty of the parents or guardians provide opportunities for education to their child/ward among the age of 6-14 yrs.

The age at which an individual stops being a juvenile varies beneath different laws in our state. In accordance to the Child Labour Prohibition and Regulation Act, 1986, a child is a person who has not attained 14 yrs¹¹. The Constitution of India defends children underneath the age of fourteen yrs from functioning in manufacturing works and dangerous works. A region of apprehension is that no least amount of age for child labour has been précised but for the reason of criminal

⁸ http://www.unicef.org/rosa/Criminal_Responsibility_08July_05%28final_copy%29.pdf

⁹ http://www.unicef.org/rosa/Criminal_Responsibility

¹⁰ <http://books.google.co.in/books?id=EJmnEwJK-i0C&pg=PA12&dq=L%E2%80%99enfant+ET+la+vie+familiale+sous+l%E2%80%99Ancien+Regime,+Philippe+Aries+said+that+%E2%80%9Cthe+child+in+the+Middle+Ages&hl=en&sa=X&ei=MxpHUqjVOYuQrgeYz4CYDw&ved=0CC4Q6AEwAA>

¹¹ http://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=books&cd=1&cad=rja&ved=0CC8QFjAA&url=http%3A%2F%2Fncpr.gov.in%2FUploadedFiles%2FDiscussion_Paper_on_Legal_Provisions_Regarding_Age_of_Child.pdf&ei=mhpHUvqxJ8rSrQfbuYHQBQ&usg=AFQjCNGSKAmP1yqF6CS32tAKGSWH7suXoA&bvm=bv.53217764,d.bmk

legal accountability, the age boundary is seven and twelve under the IPC, 1860. For particular conduct in the Juvenile Justice (Care and Protection of Children) Act 2000, the age boundary is 18 for both the sex.

A few statutes pertaining to age beneath dissimilar laws are:

Age of majority-

Beneath the 'Indian Majority Act 1875', each citizen of our nation attains the age of a major on the attainment of 18yrs and not prior to it. The Indian Majority Act was passed for bringing homogeneity in the application of laws to people of diverse religions. Till a specific special law stipulates or else, each individual with a domicile of India is considered to be considered to have accomplished an age for the adult ahead of attainment of 18 yrs. Though, in the instance of a juvenile for whose individual or assets, or in cooperation, a custodian has been fixed or affirmed by the court previous to the age of 18 yrs, and in instance of each under aged the superintendence of whose assets has been supposed by the Court of Wards, age of majority in that case will be 21yrs rather than 18yrs.

U/Sec 4 (a) of the Hindu Minority and Guardianship Act (HMGA), 1956, 'juvenile' is said to be a human being who has not attained the age of 18yrs.

Juvenile justice and claim of juvenility- Beneath the Juvenile Justice (Care and Protection of Children) Amendment Act, 2005, the subsequent alterations were initiated and pertinent to all matters concerning custody, trial or sentence on sentence of children below any of these laws:

Juvenile in clash with law- connotes a child who is assumed to have established a crime and hasn't attained his 18yrs as on the date of the commission of the act. Each time a demand for the damages of a child is elevated prior to a court or a court is of the view that the wrongdoer present ahead of it was a under aged on the day of the commission of the act, the court will make an investigation, obtain any proofs as possibly will be essential (rather than a proclamation) so that it can resolve the age issue of the wrong doer, and can note the data as to 'whether or not the personality is a under aged, declaring his age as almost as may be. A significant term is that a demand for the damages of juvenility can be lifted prior to the court of law and it will be documented at any point even if a case has been disposed in conditions of the necessities. If the judicial dignitaries discover a personality to be a under aged on the day of the commission of the act, it will have to transfer the case to the juvenile Board.

It has been seen on various occasions that if the law maintaining agency (police force) acquires a juvenile into custody and discovers the juvenile sturdy he is believed to be a 'major' and deprived of the helpful principles of the JJ System.

Least Age of Criminal Responsibility - The lawful meaning of a juvenile affects so as to how the courts pact with criminals. Hence age is one of the most crucial aspects while prosecuting a trial. A juvenile individual can't be treated in the similar way as a major.

For illustration, if a minor is alleged of a wrongful act under the ingredients of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, he is unconstrained to compulsory advantages under the exceptional enactment of the JJ Act.

If there is law pertaining to the criminal accountability of juveniles, the accused should not be prosecuted beneath the usual legislation served for majors. Under aged offenders has to be tried below the JJ System and not the criminal justice imparting system for majors. Adolescent offenders certainly cannot be incarcerated or specified the capital punishment.

Age authentication of saved sufferers of trafficking-The age of a saved sufferers is a significant feature in legislative implementation and judicial decree delivery. Any person below 18 yrs is a juvenile beneath the JJ Act, 2000 and cannot be sent off to a prison. The juvenile should be taken care after in a home and tried with the principles of the JJ Act.

It is necessary to check the responsibility of health centres who conduct the age authentication and even of the police officials who document the age instantaneously following a rescue. Age authentication documents generally place the sufferers within an age boundary. There are limitless police documents where the age of the victim is recorded as "emerges to be of 18 to19 yrs" and the health test also puts the age of the victim within a boundary. The SC has believed that 'when the proficient's view is specified in an age boundary, the least age in the boundary must be considered. Thus, the advantage of the uncertainty brings special treatment for the sufferer. Consequently, if the age authentication document states that the victim is in the age boundary of 17 to 19 yrs, hence, for the rationale of 'legum' administration the age has to be occupied as 17 yrs.

Age of consent for sexual intercourse in our country, the regulation believes any person below 18 yrs to be a juvenile, not capable to take important decisions distressing herself or others for the reason of the Majority Act, Contract Act, JJ Act, Child Marriage prohibition Act or else Representation of Peoples Act. Nonetheless, beneath Sec 375 of the IPC, the young woman (aged 16-18) is provided the right of assent to physical intercourse. Thus far, she can't get married at that age even if she has the permission of her guardians but she can assent to physical interaction so long as she is not out of the possession of the guardian. The Law Commission of India tried in its 84th statement documentation, to take the age of approval in rape crimes to 18 yrs, in relation to other legislations and steady with polished and contemporary ideas related to the anxiety and empathy that the social order should confer on its adolescents but it was not acknowledged. As a consequence, the age of approval in an crime of rape carries on to be 16 yrs presently. Lifting the age of approval for sexual communication to 18, steady with the conditions in following legislations, emerges to be the inevitable indispensable before the structure.

Child Witnesses-The courts enclosed to facilitate proof from a juvenile eyewitness, if established capable to overthrow information, may well be the grounds for getting convicted. In simple expression, yet in the nonexistence of a swearword, the facts of a juvenile eyewitness can be well thought-out U/Sec 118 (Evidence Act), endowed with such an eyewitness is competent to recognize the responses there after. The substantiation of a juvenile eyewitness and reliability depends on the situations of every prosecution. The single preventative measure, the court shall keep in its wisdom while measuring the proof of a juvenile eyewitness is with the purpose of the reliability of the eyewitness, his/her conduct should be akin to so as to of some other capable eyewitness, and so as to at hand is no possibility of them being tutored.

Supplementary, U/Sec 118 (Evidence Act) foresees with the endeavour for every individual must be proficient to be a witness, if not the court believes that they are barred from considerations of the queries put to them, or from philanthropic logical responses to the queries, as of their juvenile age, excessive aged, or illness either of psyche or of some former parallel cause. Though, an adolescent could be approved to be a witness condition he has the logical ability to comprehend interrogations and endow with sensible responses.

Whilst the rule identifies the juvenile as a capable eyewitness, a juvenile who is nearly 6 yrs of age, not capable to shape a appropriate view concerning the life of the event as a result of immaturity of thoughtfulness, isn't measured by court as a eyewitness whose solitary authentication can be based with no erstwhile confirmatory substantiation. The proofs of juvenile should be assessed cautiously as he is simple victim to tutoring.

It is essential to facilitate the classification of a 'juvenile' be taken in line with the Collegiums on the privileges of the juvenile which includes every one under 18 yrs of age. A reconsideration of the description of 'juvenile', in luminosity of Art 1 of the CRC, has highlighted to the Law Commission of India as a constituent of a complete revision of the CRPC, the (Indian Evidence Act) and the IPC.

Almost 10 months subsequent to 23yr girl being gang raped by 6 people inside a moving bus in New Delhi, the Board of Juvenile Justice has held one of the indicted accountable of rape and murder. Though, keeping into view that the accused was a juvenile at the instance of establishing the offence, they have only sent him off to a reformatory home for 3 yrs. As expected, the decree has caused anger from corner to corner of the nation. There has been call for that assessment judges must have diplomacy to carry the prosecution for children's as majors, or to describe under aged of more than 16 yrs of age as majors when it comes to grave offences.

Without any doubt that as an instrument to ensure the increasing offences by young people flanked by the ages of 16-18 yrs, the current legislation is insufficient. In accordance to the National Crime Records Bureau, crimes by children have increased by 40 per cent between 2001 and 2010. The judges can't be held responsible for this condition of dealings. Seeing that, this is the utmost punishment the JJA sets down for anybody below 18 yrs, irrelevant of the character of the offence. The demand for judiciary's discretion on authority to settle on whilst to treat an accused as a major or a child will show the way to confusion instead of firmness in law.

Shielding juvenile in clash with the law is a beneficial idea but the time bar regarding criminal responsibility of a juvenile differs from state to state. The UN Collegium on the Privileges of the Juvenile describes that a juvenile is an individual meaning every person under the age of 18 yrs if not, beneath the legislation appropriate to the juvenile, majority is

reached previously. This has been suggested by the home ministry also after discussions with government's chief secretaries and police chiefs¹².

I remember a sensational advertising caption, "The Mint with a Hole". The ad further went on to say the hole was for free! Most of our laws seem to come with a large hole and, of course, the hole is free. Oftentimes, it is the hole that is the operative part. The Juveniles Act has now proved to be a Mint with a Hole. The criminal has the mint and we have the hole! See the outrageous consequence of such an unintelligent law! Three years of picnic in a reformatory home for a devilish rapist who tortured and killed an innocent young lady. It shouldn't take more than 24 hrs to scrap those laws and condemn it to the unfathomable oceans. This legal proviso is not helping children to become tomorrow's responsible citizens. On the contrary, it assures them of protection from consequences of criminal activity up to the age of 17 years and 364 days!! That is tantamount to abetment of crime. When a boy of 16 commits a heinous crime, his age should not come in the way of handing down a punishment befitting the nature of the crime. Such punishment alone prevents others from committing the same crime. So it is hoped that when the prosecution goes for further appeal, the upper court will take note of it and decide a fitting punishment to the boy. Is rape a childlike action? It is a biological urge. The day a creature becomes biologically capable, has the urge to the evil and in fact performs the act, the creature is an ADULT. It has got nothing to do with age. This nature should be recognized. Any creature which misuses the ability to perform the act by force irrespective of AGE is morally, ethically liable for punishment. Now the punishment should cause physical pain as the rapist mind does not have fear or sense of shame.

Juveniles are known as amateurs for the reason that they are not capable enough in making decisions on what is ethically and morally correct which is the reason they indulge in crimes, but if a juvenile takes part heinous offences preceding few months of attaining his age of an adult, it means that his ability to distinguish between good and bad has almost been nurtured. Hence in cases where heinous offences are committed by juveniles just before attaining the age of majority they should be tried upon in the adult courts with the same punishment for them without any leniency.

¹²www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&cad=rja&ved=0CFsQFjAG&url=http%3A%2F%2Fwww.humanrights.gov.au%2Fpublications%2Fpolicing-juveniles-consistently-un-convention-rights-child&ei=zxtHUsuwDoKRrAfDnoDQBw&usg=AFQjCNGjaPIt6I97RG0cNPiceSNoMjjFjA&bvm=bv.53217764,d.bmk