

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE DR. JUSTICE AJOY KUMAR MUKHERJEE

**CRR 2378 of 2024
IA No. CRAN 7 of 2025**

**Child in conflict with law represented by his father
Vs.
The State of West Bengal & Anr.**

For the petitioners : Mr. Sekhar Basu
Mr. Souvik Mitter
Md. Ashraf Ali

For the State : Mr. Bibaswan Bhattacharya
Ms. Afreen Begum

Heard on : 06.01.2026

Judgment on : 27.01.2026

Dr. Ajoy Kumar Mukherjee, J.

1. Child in conflict with law has prayed for quashing of proceeding being JJB/GR case no. 109/2023 pending before Juvenile Justice Board, Kolkata.

2. A Traffic sergeant namely Avik Kumar Sinha of East T.P. guard, while performing duty on 26.11.2023 at about 17.20 hrs, found in front of St. Xavier's College, that the child in conflict with law was plying one four-wheeler being registration no. WB 02 AC 7549, having blue backon on top

and “Judge” written board kept at dash board, and was approaching towards west bound, violating one way traffic rule on Park street from Loudan Street. When the said sergeant tried to stop the vehicle, due to driving through wrong side, the juvenile started to drive in reverse direction and dragged his car again, violating one way rule in a rash and negligent manner, which could have caused severe fatal accident. Finally the sergeant succeeded in stopping the vehicle and on being asked the juvenile replied that his grandfather was a Judge, who retired 18 years back and the car belongs to him and he confessed that he does not possess any driving licence.

3. On the basis of said written complaint Park Street GDE no. 2092 dated 26.11.2023 under sections 279/205/332 of the Indian Penal Code read with various provisions under the Motor Vehicle Acts was started.

4. After completion of investigation charge sheet submitted against the Juvenile and on 28.11.2023 the juvenile was produced before the Board who was pleased to order to keep him at Dhruv Ashram till 12.12.2023. However, on 29.11.2023, the petitioner was released on bail.

5. Being aggrieved by the aforesaid proceeding, learned counsel for the juvenile, Mr. Basu submits that the proceeding is liable to be quashed under section 14(2) read with 14(4) of the Juvenile Justice Act, 2015 (in short JJ Act, 2015) as the inquiry remained inconclusive within the statutory period.

6. Learned counsel appearing for the state opposed the prayer for quashing the proceeding.

7. Having heard learned counsel appearing on behalf of the petitioner and the State, it appears that in the instant case all the offences alleged

against the juvenile are punishable maximum upto 3 years and as such under section 2(45) of the JJ Act, 2015 they are petty offences.

8. Before going further let me reproduce section 14(2) and 14(4) of the JJ Act which runs as follows:-

(2) The inquiry under this section shall be completed within a period of four months from the date of first production of the child before the Board, unless the period is extended, for a maximum period of two more months by the Board, having regard to the circumstances of the case and after recording the reasons in writing for such extension.

(4) If inquiry by the Board under sub-section (2) for petty offences remains inconclusive even after the extended period, the proceedings shall stand terminated:

Provided that for serious or heinous offences, in case the Board requires further extension of time for completion of inquiry, the same shall be granted by the Chief Judicial Magistrate or, as the case may be, the Chief Metropolitan Magistrate, for reasons to be recorded in writing.

9. Therefore under the provisions of section 14(2), the inquiry shall have to be completed within a period of 4 (four) months from the date of first production of juvenile, before the Board unless the period is extended for a maximum period of two more months by the Board, after recording reasons in writing for such extension. In the instant case the delinquent juvenile appeared before the Board on 28.11.2023 and as per provision of JJ Act, the inquiry should have been completed by 27.03.2024. It is true that the time frame as stipulated under the JJ Act, can be extended for another two months but that can be done only by recording reason in writing. Learned counsel for the petitioner pointed out that the order dated 02.02.2024 by which the time was extended is completely bereft of any reason and therefore according to learned counsel for the petitioner, it is not a valid extension, interms of section 14(2) of JJ Act.

10. In the JJ Act the term 'inquiry' has not been defined. However section 103(1) of the JJ Act expressly provides that a Committee or Board while

holding any inquiry under any of the provision of the Act shall follow such procedure as may be prescribed and subject thereto shall follow as far as may be the procedure laid down in the Code of Criminal Procedure for trial of summons cases.

11. Now section 2(g) of Cr.P.C. defines “inquiry” as every inquiry other than a trial conducted under the Code by a Magistrate or Court. Inquiry precedes trial. Normally in a criminal proceeding an inquiry ends and a trial begins specifically when the court frames the charges against the accused.

12. The consequence of the failure to adhere to the provisions as laid down in section 14(2) is mentioned in section 14(4) of the Act as quoted above. In the instant case charge sheet was filed beyond the period of 4(four) months and even after the extended period which expired on 27.05.2024 (i.e. 6 months since the first appearance of the delinquent juvenile before the Juvenile Justice Board) the inquiry as stipulated under section 14(2) of the Act remain inconclusive as the plea of the delinquent juvenile had not been recorded till the granting of the stay by this High court on 12.07.2024. Therefore it is clear that in the instant case within the maximum time frame for conclusion of inquiry as mentioned in section 14(4), inquiry has not been concluded.

13. Now let me consider whether the word “shall” used in section 14(4) of the JJ Act shall be construed as mandatory or directory.

14. In *Sharif-Ud-Din Vs. Abdul Gani Lone* reported in **(1980) 1 SCC 403** the Supreme Court examined the J & K Representation of people Act, 1957

and considered how to determine whether a legislative provision is mandatory or directory. The Court held :-

“ The fact that the statute uses the word “shall” while laying down a duty is not conclusive on the question whether it is a mandatory or directory provision. In order to find out the true character of the legislation, the court has to ascertain the object which the provision of law in question has to subserve and its design and the context in which it is enacted. If the object of a law is to be defeated by non-compliance with it, it has to be regarded as mandatory. But when a provision of law relates to the performance of any public duty and the invalidation of any act done in disregard of that provision causes serious prejudice to those for whose benefit it is enacted and at the same time who have no control over the performance of the duty, such provision should be treated as a directory one. Where, however, a provision of law prescribes that a certain act has to be done in a particular manner by a person in order to acquire a right and it is coupled with another provision which confers an immunity on another when such act is not done in that manner, the former has to be regarded as a mandatory one. A procedural rule ordinarily should not be construed as mandatory if the defect in the act done in pursuance of it can be cured by permitting appropriate rectification to be carried out at a subsequent stage unless by according such permission to rectify the error later on, another rule would be contravened. Whenever a statute prescribes that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to a specific consequence, it would be difficult to hold that the requirement is not mandatory and the specified consequence should not follow.”
(emphasis added)

15. Needless to say that the JJ Act is a beneficial piece of legislation where the objective of the Act is to restore and rehabilitate delinquent juvenile in the mainstream of the society specially in the cases where allegation is of committing pretty offences. Therefore such legislation must receive it's due interpretation as a legislation belonging to the said category and the Act must be interpreted and understood to advance the cause of the legislation and to confer the benefits of the provisions thereof to the persons for whom the legislation has been made. The timeline given in section 14 is with the object of speedy inquiry and to avoid repeated appearance of the delinquent before the Board and also aims to reduce the impact of such legal complexities in the life of a juvenile.

16. The Supreme Court in ***Child in conflict with law through his mother Vs. State of Karnataka and another*** reported in **2024 SCC**

Online SC 798 held in para 9.8 as follows:-

9.8“Section 14(2) of the Act provides that the inquiry as envisaged under Section 14(1) thereof shall be completed within a period of four months from the date of first production of the child before the Board. The time is extendable by the Board for a maximum period of two months, for the reasons to be recorded. The consequences of no conclusion of any such inquiry have been provided in Section 14(4) of the Act, only with reference to petty offences. The aforesaid sub-section provides that if inquiry by the Board under sub-section (2) for petty offences remains inconclusive even after the extended period, the proceedings shall stand terminated. Proviso to the aforesaid sub-section provides that in case the Board requires further extension of time for completion of inquiry into serious and heinous offences, the same shall be granted by the Chief Judicial Magistrate or, as the case may be, the Chief Metropolitan Magistrate, for reasons to be recorded in writing.”

9.9 “Meaning thereby that as far as inquiry of CCL, as envisaged under Section 14(1) of the Act, by the Board for heinous offences is concerned, there is no deadline after which either the inquiry cannot be proceeded further or has to be terminated.”

17. In this context it is also to be mentioned that Juvenile Justice Act are designed for the care and protection of children, so courts should interpret them generously to benefit the child. Courts must avoid a rigid or overtly technical approach and instead favour the conclusion that the persons is a child. It is now settled, that being a welfare legislation the courts should be zealous to see that a juvenile derives full benefits of the provisions of the Act but at the same time, it is also imperative for the courts to ensure that the protection and privileges under the Act are not misused by unscrupulous persons to escape punishments for having committed serious offence.

18. Judging in the aforesaid touchstone as laid down by the Apex Court in **Abdul Gani Lone** (supra) case if I consider section 14(2) which laid down maximum time period for conclusion of inquiry and section 14(4) which lays down failure to comply said requirement is that proceeding shall stand

terminated and also considering the true character of beneficial legislation and that non-compliance of such provision might defeat the object of legislation, I am of the view that the word “shall” used in section 14(4) of the JJ Act, is mandatory where the allegation is about committing pretty offence by the juvenile.

19. In view of aforesaid discussion I find that this is a fit case where the proceeding is liable to be quashed invoking this Court’s jurisdiction under section 528 of BNSS, as it attracts the mandatory provision of stopping inquiry under section 14(4) of the Juvenile Justice Act.

20. CRR 2378 of 2024 is allowed. The impugned proceeding being JJB/GR Case no. 109 of 2023 pending before JJB Kolkata is hereby quashed.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(DR. AJOY KUMAR MUKHERJEE, J.)