



Serial No. 18
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.A. No. 55 of 2024

Date of Decision: 02.04.2025

Shri. Lovely Chyrmang
Aged about 25 years
S/o (L) Thawain Ryngkhlem,
R/o Myrjai, West Jaintia Hills District,
Meghalaya

.....Appellant

- Versus-

State of Meghalaya
Represented by the Public Prosecutor/
Special Public Prosecutor

..... Respondent

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge
Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Dey, Adv.
For the Respondent(s) : Mr. T. Yangi. B, AAG with
Mr. E.R. Chyne, GA

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |
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ORDER (ORAL)

1. Heard Mr. S. Dey, learned counsel for the appellant who has submitted that before proceeding with this appeal, the attention of this



Court is drawn to the preliminary prayer of the appellant, inasmuch as the plea of juvenility of the appellant is now raised before this forum.

2. The learned counsel has led this Court to page 227 of the paper-book wherein is found annexed copy of the birth certificate of the appellant, the date of birth indicated therein being 30.06.1999. Another document enclosed at page 228 is the school certificate of the appellant where the date of birth of the appellant is also given as 30.06.1999. It is prayed that this issue may be decided at the outset. In support of his submission, the learned counsel has cited the case of Abuzar Hossain alias Gulam Hossain v. State of West Bengal, (2012) 10 SCC 489, paras 39, 39.1, 39.2 and 39.3.

3. Ms. T. Yangi. B, learned AAG has also conceded that the plea of juvenility can be taken at any stage of the proceedings before any court, including this Court and therefore, no objection is raised if such issue is made to be decided by the Trial Court.

4. We have considered the submission of the parties and have also looked into the authority cited by the learned counsel for the appellant, the same being reproduced herein below as:

“39. Now, we summarise the position which is as under:

39.1. A claim of juvenility may be raised at any stage even after the final disposal of the case. It may be raised for the first time before this Court as well after the final disposal of the case. The delay in raising the claim of juvenility cannot be a ground for rejection of such claim. The claim of juvenility can be raised in appeal even if not pressed before the trial court and can be raised for the first time before this Court though not pressed before the trial court and in the appeal court.

39.2. For making a claim with regard to juvenility after conviction, the claimant must produce some material which may prima facie satisfy the court that an inquiry into the claim of



juvenility is necessary. Initial burden has to be discharged by the person who claims juvenility.

39.3. As to what materials would prima facie satisfy the court and/or are sufficient for discharging the initial burden cannot be catalogued nor can it be laid down as to what weight should be given to a specific piece of evidence which may be sufficient to raise presumption of juvenility but the documents referred to in Rules 12(3)(a)(i) to (iii) shall definitely be sufficient for prima facie satisfaction of the court about the age of the delinquent necessitating further enquiry under Rule 12. The statement recorded under Section 313 of the Code is too tentative and may not by itself be sufficient ordinarily to justify or reject the claim of juvenility. The credibility and/or acceptability of the documents like the school leaving certificate or the voters' list, etc. obtained after conviction would depend on the facts and circumstances of each case and no hard-and-fast rule can be prescribed that they must be prima facie accepted or rejected. In *Akbar Sheikh v. State of W.B.*, [(2009) 7 SCC 415] and *Pawan v. State of Uttaranchal*, [(2009) 15 SCC 259] these documents were not found prima facie credible while in *Jitendra Singh v. State of U.P.*, [(2010) 13 SCC 523] the documents viz. school leaving certificate, marksheet and the medical report were treated sufficient for directing an inquiry and verification of the appellant's age. If such documents prima facie inspire confidence of the court, the court may act upon such documents for the purposes of Section 7-A and order an enquiry for determination of the age of the delinquent."

5. It is also to be noted that this Court has dealt with a similar issue in the case of *Darius Marwein v. State of Meghalaya & anr.* and in this regard has passed an order dated 30.06.2022 in CrI.A. No. 17 of 2021. The relevant paras 3 and 4 are cited herein below as:

"3. It is fairly submitted on behalf of the State that such plea can be taken at any stage and the matter requires to be considered on evidence. At the suggestion of the State, the matter is remanded to the trial court only for the consideration of the issue as to whether the appellant was or was not below the age of 18 as on January 1, 2007, the date of the incident.

4. The trial court should make every endeavour to decide the issue within three months of receipt of an authenticated copy of this



order. The parties should cooperate and not seek any unnecessary adjournment before the trial court. In the event the issue is answered in favour of the appellant herein, an appropriate order should follow upon the impugned judgment and sentence being set aside.”

6. In view of the above, we hereby disposed of this appeal without going into the merits thereof with a direction that the issue of juvenility of the appellant be looked into and decided by the concerned Trial Court and an appropriate order be passed which may result in changing the character of the impugned judgment and sentence under challenged herein.
7. Let the copy of this order along with the trial court records be forwarded to the concerned court for due compliance.
8. Appeal disposed of, however without prejudice to the rights of the respective parties to agitate the matter on merits in due course.

(B. Bhattacharjee)
Judge

(W. Diengdoh)
Judge