



2025:AHC:168178

Reserved On:-27.08.2025

Delivered On-19.09.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 3194 of 2025

Smt. Guddi Sharma

.....Revisionist(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Dheeraj Kumar Singh
Counsel for Opposite Party(s)	:	Pankaj Bharti, G.A.

Court No. - 47

HON'BLE SIDDHARTH, J.

1. Heard Sri Dheeraj Kumar Singh, learned counsel for the revisionist; Sri Pankaj Bharti, learned counsel for opposite party no.2; learned A.G.A. for the State and perused the trial court record.

2. The present revision has been preferred against the impugned order dated 16.01.2025 passed by Juvenile Justice Board, Ghaziabad, in Criminal Misc. No. 191 of 2024, (State Vs. Junaid) arising out of case crime no. 348/2024, under sections 70(2), 87, 123 of B.N.S. and section 9-G/10 of the POCSO Act, Police Station- Crossing Republic, District- Ghaziabad, and order dated 16.05.2025 passed by Juvenile Judge/Special Judge (POCSO Act), Ghaziabad, in appeal no. 31/2025.

3. An application dated 07.10.2024 was filed before the Juvenile Justice Board, Ghaziabad, for declaring the accused, respondent no.2 as juvenile.

4 . C.W.-1, Shamim, father of the respondent no.2, proved that he has 7 children and respondent no.2 is his 5th son who was born in January, 2008. He has passed class- 7 and is now aged about 16 years, 6 months and 27 days. He was admitted for the first time in Vidya Madarsa aforesaid by his paternal grandfather (nana) when he was aged about 7 years.

5. C.W.-2, Farman Ali, teacher of Vidya Madrsa Ekra Primary Jasar, Sultan Nagar, Meerut, who proved that the respondent no.2 was admitted in class-1 in his school and studied up to class- 5th. On 04.04.2020, he took his transfer certificate. When he took admission in the school, he filled admission form and his name finds place of serial no. 71 of the S.R. Register wherein his date of birth is mentioned as 04.01.2008.

6. The informant side filed objection before Board stating that at the time of admission in Madarsa, no birth certificate of accused was presented. Therefore, the date of birth mentioned on the transfer certificate cannot be considered to be correct. The witnesses

produced by the accused side are interested witnesses.

7. Learned counsel for the revisionist has submitted that the father of respondent no.2 claimed juvenility of respondent no.2 on the basis of 3 documents i.e. Transfer Certificate, Application for admission and Affidavit dated 10.04.2015 which have no sanctity in the eyes of law as these documents do not fall under Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 and relevant for claiming juvenility.

8. No document regarding proof age of respondent no. 2 was appended while claiming juvenility before the learned Courts below for which Juvenile Justice (Care and Protection of Children) Act, 2015 has been enacted but the learned Courts below in holding otherwise have misconstrued the provisions of law as contained in Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015.

9. Learned counsel for respondent no.2 has supported the judgments and orders impugned in this revision stating that from the evidence produced before the Board, the date of birth of the respondent no.2 was proved beyond reasonable doubt and no evidence to the contrary was led by the informant side.

10. After hearing the rival submissions, this Court finds that two public documents were produced before the Board in support of claim of juvenility of respondent no.2 before the Juvenile Justice Board.

11. The first document was the transfer certificate which certified that the respondent no.2 was admitted in the Madarsa named above on 10.04.2015 in class-2 and removed from school on 04.04.2020 after passing class-5th. The second document was the admission form of respondent no.2 signed by Rahis as parent or guardian of the respondent no.2.

12. This Court finds that respondent no.2 is son of Shamim, when in his admission form name of his parent or guardian has mentioned as Rahis. Therefore, the absence of name of Shamim and his signature in the admission form creates doubt about the contents of the admission form. The contents of scholar register and transfer certificate form were required to be proved by someone who made entries in the aforesaid document as per section 35 of the Evidence Act. C.W.-2, who was the teacher of the madarsa, did not prove who made the entries in the S.R. Register and the transfer certificate of respondent no.2.

13. This Court further finds that neither in the admission form nor in the scholar register and transfer certificate form, there is mention of name of the school. On the scholar register and transfer certificate form the seal of principal of the madarsa has been affixed and on the admission form also seal of the principal of the madarsa has been fixed on the photograph of the respondent no.2, but the name of the school is not printed on both the documents. As per section 35 of the Evidence Act, the contents of

the scholar register and transfer form, which are public documents were required to be proved by the person, who made entries therein. Mere production of document can not be considered to be proof all its contents as held by the Apex Court in paragraph 29 (ix) and (x) of the judgment in the case of **Rishipal Singh Solanki Vs. State of U.P. and Others, 2021 LawSuit (SC) 741.**

14. Learned counsel for the revisionist has further submitted that P.W.-2 did not proved the contents of the documents produced before Juvenile Justice Board. He has relied upon the judgment of the Hon'ble Supreme Court in the case of **Alamelu and Another vs. State Represented by Inspector of Police, (2011) 2 SCC 385** and specially on paragraph nos. 40, 42, 43 which are quoted hereinbelow :-

"40. Undoubtedly, the transfer certificate, Ex.P16 indicates that the girl's date of birth was 15th June, 1977. Therefore, even according to the aforesaid certificate, she would be above 16 years of age (16 years 1 month and 16 days) on the date of the alleged incident, i.e., 31st July, 1993. The transfer certificate has been issued by a Government School and has been duly signed by the Headmaster. Therefore, it would be admissible in evidence under [Section 35](#) of the Indian Evidence Act. However, the admissibility of such a document would be of not much evidentiary value to prove the age of the girl in the absence of the material on the basis of which the age was recorded. The date of birth mentioned in the transfer certificate would have no evidentiary value unless the person, who made the entry or who gave the date of birth is examined.

42. Considering the manner in which the facts recorded in a document may be proved, this Court in the case of **Birad Mal Singhvi Vs. Anand Purohit1**, observed as follows:-

"The date of birth mentioned in the scholars' register has no evidentiary value unless the person who made the entry or who gave the date of birth is examined..... Merely because the documents Exs. 8, 9, 10, 11, and 12 were proved, it does not mean that the contents of documents were also proved. Mere proof of the documents Exs. 8, 9, 10, 11 and 12 would not tantamount to proof of all the contents or the correctness of date of birth stated in the documents. Since the truth of the fact, namely, the date of birth of Hukmi Chand and Suraj Prakash Joshi was in issue, mere proof of the documents as produced by the aforesaid two witnesses does not furnish evidence of the truth of the facts or contents of the documents. The truth or otherwise of the facts in issue, namely, the date of birth of the two candidates as mentioned in the documents could be proved by admissible evidence i.e. by the evidence of those persons who could vouchsafe for the truth of the facts in issue. No evidence of any such kind was produced by the respondent to prove the truth of the facts, namely, the date of birth of Hukmi Chand and of Suraj Prakash Joshi. In the circumstances the dates of birth as mentioned in the aforesaid documents 1988 (Supp) SCC 604 have no probative value and the dates of birth as mentioned therein could not be accepted."

43. The same proposition of law is reiterated by this Court in the case of [Narbada Devi Gupta Vs. Birendra Kumar Jaiswal](#)², where this Court observed as follows:-

"The legal position is not in dispute that mere production and marking of a document as exhibit by the court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence, that is, by the "evidence of those persons who can vouchsafe for the truth of the facts in issue".

15. The Apex Court has cautioned the court in extending special protection to the accused under J.J. Act in heinous offence in the case of Parag Bhati (Supra), in paragraph 26, and 27, as follows: -

"26) It is no doubt true that if there is a clear and unambiguous case in favour of the juvenile accused that he was a minor below the age of 18 years on the date of the incident and the documentary evidence at least prima facie proves the same, he would be entitled to the special protection under the JJ Act. But when an accused commits a grave and heinous offence and thereafter attempts to take statutory shelter under the guise of being a minor, a casual or cavalier approach while recording as to whether an accused is a juvenile or not cannot be permitted as the courts are enjoined upon to perform their duties with the object of protecting the confidence of common man in the institution entrusted with the administration of justice."

"27) The benefit of the principle of benevolent legislation attached to the JJ Act would thus apply to only such cases wherein the accused is held to be a juvenile on the basis of at least prima facie evidence regarding his minority as the benefit of the possibilities of two views in regard to the age of the alleged accused who is involved in grave and serious offence which he committed and gave effect to it in a well-planned manner reflecting his maturity of mind rather than innocence indicating that his plea of juvenility is more in the nature of a shield to dodge or dupe the arms of law, cannot be allowed to come to his rescue." 19. The revisionist is accused in a case of dare devil murder in court compound. Hence he is not entitled to benefit of the judgement of Apex Court Pawan Kumar(Supra).

16. In view of the above consideration, the judgment and orders passed by both the courts below are hereby **set aside**.

17. The revision is **allowed**.

September 19, 2025

Abhishek

(Siddharth,J.)