

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL REVISION APPLICATION NO. 326 OF 2012
WITH
CRIMINAL APPLICATION NO. 253 OF 2013
IN
CRIMINAL REVISION APPLICATION NO. 326 OF 2012**

The State of Maharashtra ... Applicant
V/s.
Ankush Maruti Shinde ... Respondent

Ms. S.V. Gajare, A.P.P. for the State.
Mr. Vijay Hiremath for the Respondent.

CORAM : A. V. NIRGUDE, J.

DATE : 16th NOVEMBER, 2015.

P.C. :

The State of Maharashtra challenges the judgment and order dated 6th July 2012 passed by the learned Additional Sessions Judge, 6th, Nashik, in Criminal Application No.5 of 2012. Applicant was the respondent. He was convicted accused in Sessions case. He was not only convicted for murder but also for other offences. He was sentenced to death penalty. Even the Supreme Court dismissed his Appeal and Review Application. It is after number of years from the date of offence, he moved the present application seeking declaration that on the day of incident he was juvenile or child. Section 7(a) of Juvenile justice (Care and Protection of

Children) Act, 2000 provides procedure to be followed when issue of juvenility is raised before any Court. Such a claim can be raised even after conviction. The State of Maharashtra has enacted Juvenile justice (Care and Protection of Children Rules, 2002 which were extensively amended in 2011 Rule 8(G) reads as under :-

“8G. Age determination - (1) In every case concerning a juvenile or child, the Board or the Committee or any court shall determine the age of such juvenile or child within a period of thirty days from -

- i) the date of first production before the Board or Committee, or
 - ii) the date of filing of application before any court claiming that an accused or a person convicted of an offence is a juvenile, or
 - iii) the date of raising the issue of age before any court that is seized of any proceeding relating to a child in need of care and protection, or
 - iv) the date when any court initiates *suo-motto* action for determination of age.
-”

2 It is clear from reading of this Rule that in every case concerning determination of age, the Court should seek proof of age from documents such as birth certificate or certificate issued by School reflecting the date of birth. In this case, respondent produced before the Court 'school record' in which date of respondent's birth is 21.08.1985. The learned Sessions Judge accepted this evidence. The learned A.P.P.

assailed the order. She asserted that placing reliance on this piece of evidence was erroneous. She also argued that the date of birth mentioned in the school record was based on oral statement of the guardian and there was ample scope of error and such evidence ought not to have been accepted. I am afraid this submission is not sufficient to interfere in the conclusion drawn in the impugned judgment. The learned Sessions Judge followed the rule quoted above and asked for necessary documents. The document, the learned Judge held, was reliable. He has recorded reasons why he placed reliance on this document. The first and foremost reason was that this date of birth was informed to the school way back when the respondent was hardly a child of five years.

3 The Revision Application stands dismissed.

4 In view of dismissal of the Revision Application, Criminal Application No. 253 of 2013 also stands dismissed.

(A.V.NIRGUDE, J.)